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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 13 and 406

[Docket No. FAA-2016-7004; Amdt. Nos. 13-39, 406-11]

RIN 2120-AK90

2017 Revisions to the Civil Penalty Inflation Adjustment Tables

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule provides the 2017 inflation adjustment to civil penalty amounts that may be imposed for violations of Federal Aviation Administration (FAA) regulations and the Hazardous Materials Regulations, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. It also finalizes the catch-up inflation adjustment interim final rule required by the same Act.

DATES: Effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Cole R. Milliard, Attorney, Office of the Chief Counsel, Enforcement Division, AGC-300, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3452; email cole.milliard@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking and Applicable Statutes

The FAA's authority to issue rules on 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. The Secretary of Transportation's authority to regulate the transportation of hazardous materials ("hazmat") by air is in chapter 51 of title 49; civil penalty authority is in section 5123. The Secretary's authority to regulate

commercial space transportation may be found at 51 U.S.C. subtitle V, sections 50901-50923 (chapter 509), which provides for the Department of Transportation (DOT), and, through delegation, the FAA to impose civil penalties on persons who violate chapter 509, a regulation issued under chapter 509, or any term or condition of a license or permit issued or transferred under chapter 509. 51 U.S.C. 50906(h)-(i), 50917.

This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101-410, as amended by the Debt Collection Improvement Act (DCIA) of 1996, Public Law 104-134, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114-74, codified at 28 U.S.C. 2461 note. The FCPIAA, DCIA, and the 2015 Act require federal agencies to adjust minimum and maximum civil penalty amounts for inflation to preserve their deterrent impact. The 2015 Act amended the formula and frequency of inflation adjustments. It required an initial catch-up adjustment in the form of an interim final rule, followed by annual adjustments of civil penalty amounts using a statutorily mandated formula.

Background

On July 5, 2016, the FAA issued an interim final rule entitled, "Revisions to the Civil Penalty Inflation Adjustment Tables" (the IFR) to implement the requirement for an initial catch-up adjustment.¹ This final rule (1) finalizes the catch-up adjustment interim final rule; and (2) provides the required annual adjustment of civil penalty maximums and minimums in accordance with the FCPIAA, as amended.²

Overview of Final Rule

The FCPIAA, as amended, provides a formula for annual inflationary adjustments that increase civil penalty maximums and minimums by a cost-of-living adjustment (COLA). Under the FCPIAA, as amended by the 2015 Act, the COLA for each civil penalty is the percent change between the U.S. Department of Labor's Consumer Price

Index for all-urban consumers (CPI-U) for the month of October of the calendar year preceding the adjustment and the CPI-U for the month of October of the previous calendar year. Any resulting increase must be rounded to the nearest \$1. As required by the FCPIAA, this final rule provides the 2017 annual adjustments to the civil penalty maximums and minimums provided in 14 Code of Federal Regulations (14 CFR) 13.301 and 406.9.

Method of Calculation of Adjustments to Civil Penalty Amounts Provided in 14 CFR 13.301 and 406.9

The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance on implementing the 2017 annual inflation adjustment required by the 2015 Act no later than December 15, 2016.³ On December 16, 2016, the OMB released this required guidance, which provides instructions on how to calculate the 2017 annual adjustment.⁴

To derive the 2017 adjustment, the FAA must multiply the maximum or minimum penalty amount by the percent change between the October 2016 CPI-U and the October 2015 CPI-U. In this case, October 2016 CPI-U (241.729)/October 2015 CPI-U (237.838) = Multiplier (1.01636).⁵ Accordingly, the agency multiplied the civil penalty maximums and minimums provided in current 14 CFR 13.301 and 406.9 by 1.01636 to derive the updated maximums and minimums provided in this final rule.

As examples, the agency has provided the calculations for the adjustments for the civil penalties authorized by 49 U.S.C. 5123(a)(1) (hazmat) and 51 U.S.C. 50917 (commercial space):

Adjusted penalty for 2016⁶ * Multiplier = Adjusted penalty for 2017

Sec. 5123(a)(1): \$77,114 * 1.01636 = \$78,376

Sec. 50917: \$225,867 * 1.01636 = \$229,562

³ 28 U.S.C. 2461 note.

⁴ OMB Memorandum M-17-11.

⁵ 28 U.S.C. 2461 note; OMB Memorandum M-17-11.

⁶ The adjusted penalty for 2016 includes the catch-up adjustment also mandated by the 2015 Act, and reflected in current 14 CFR 13.301 and 406.9 as amended by the IFR. 81 FR 43463 (July 5, 2016) and 81 FR 51079 (August 3, 2016).

¹ 81 FR 43463. A correction and technical amendments were made in 81 FR 51079 (Aug. 3, 2016).

² 28 U.S.C. 2461 note.

Option to Forgo Annual Civil Penalty Adjustment

The agency notes that the 2015 Act provides the Administrator with the option to forgo adjustment only in a single circumstance, which is not present at this time. If, within the twelve months preceding January 15, 2017, an FAA civil penalty subject to this inflation adjustment were increased more than it would be by this inflation adjustment, the Administrator could choose to not make the adjustment. None of the civil penalties subject to the 2017 adjustment increased at all during the relevant time period. Accordingly, the Administrator cannot forego adjustment of any penalty.

Administrative Procedure Act

Section 553 of the Administrative Procedure Act requires agencies to provide an opportunity for notice and comment on rulemaking and also requires agencies to delay a rule's effective date for 30 days following the date of publication in the **Federal Register** unless an agency finds good cause to forgo these requirements. However, section 4(b)(2) of the 2015 Act requires agencies to adjust civil monetary penalties notwithstanding section 553 of the Administrative Procedure Act (APA) and publish annual inflation adjustments in the **Federal Register**. "This means that the public procedure the APA generally requires . . . is not required for agencies to issue regulations implementing the annual adjustment." OMB Memorandum M-17-11.

Even if the 2015 Act did not except this rulemaking from section 553 of the APA, the agency has good cause to dispense with notice and comment. Section 553(b)(B), authorizes agencies to dispense with notice and comment procedures for rulemaking if the agency finds good cause that notice and comment are impracticable, unnecessary, or contrary to public interest. The annual adjustments to civil penalties for inflation and the method of calculating those adjustments are established by section 5 of the FCPIAA, as amended, leaving no discretion for the Administrator. Accordingly, public comment would be impracticable because the Administrator would be unable to consider such comments in the rulemaking process.

Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order (E.O.) 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a

regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

This rule adjusts for inflation to civil penalties for violations of aviation safety, hazmat, and commercial space provisions in accord with the Federal Civil Penalties Inflation Adjustment Act Improvement Act (the 2015 Act), Pub. L. 114-74, Section 701 (November 2, 2015). The Director of OMB provided guidance to agencies in a December 16, 2016 memorandum on how to calculate the 2017 annual adjustment required by the 2015 Act. The FAA must follow the direction of Congress and is using statutorily-mandated guidance provided by OMB in calculating the annual inflation adjustment. Applying Congress's directions and OMB's guidance, the FAA has determined that this rule imposes no additional social cost. Civil penalties are, like taxes, an economic transfer. OMB guidance A-4 states that transfers are monetary payments from one group to another and thus not a social cost. OMB further

dictates that transfers should not be included in estimates of the benefits and costs due to regulation. As transfers do not add social cost, this is a minimal cost rule. OMB also directs that distributional impacts of transfers should be considered. The term "distributional effect" refers to the impact of a regulatory action across the population and economy, divided up in various ways (e.g. income groups, race, sex, industrial sector, geography). Distributional effects may arise through transfer payments like civil penalties that stem from regulatory enforcement action. While persons paying civil penalties may experience distributional effects, these discrete effects are far outweighed by the positive effects of civil penalties. Compliance with FAA statutes and regulations is essential to safety. The FAA intends for civil penalties to serve as a punitive action against those who violate FAA statutes and regulations. Civil penalties also deter future violations. As a result, they support the FAA's mission of aviation, hazmat, and commercial space safety, which benefits the public at large. Thus, the cost impact of this rulemaking is minimal, and a full regulatory evaluation is not required in accordance with DOT Order 2100.5.

The Office of Information and Regulatory Affairs (OIRA) Administrator has determined that agency regulations exclusively implementing this annual adjustment are not significant regulatory actions under E.O. 12866, provided they are consistent with the guidance in OMB Memorandum M-17-11, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The agency has determined that this regulation is consistent with OMB Memorandum M-17-11 because it serves only to provide the 2017 annual civil penalty adjustment using the formula established by the 2015 Act. Thus, per OMB Memorandum M-17-11, the regulation is not significant.

The FAA has further determined that this final rule is not "significant" as defined in DOT's Regulatory Policies and Procedures. The FAA made this determination because this final rule does not (a) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, (b) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (c) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96–354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.” To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this final rule does not have a significant economic impact on a substantial number of small entities for the following reasons. While this final rule is likely to impact a substantial number of small entities, it will impose only minimal costs. This final rule simply identifies the amount of the inflation adjustment to existing civil monetary penalty maximums and minimums for violations of the statutory and regulatory provisions the FAA enforces. The penalty amounts are those specified by statute or called for under the inflation adjustment statutes, and the information in this rule is required by the Debt Collection Improvement Act of 1996.⁷ As civil penalties are economic transfers, by OMB direction, these are not included in the calculation of social costs. Therefore, as provided in section 605(b), the head of the FAA certifies that this rule will not result in

a significant economic impact on a substantial number of small entities.

Moreover, although the FAA has completed the analysis to support the certification provided by section 605(b), the RFA does not apply to this rulemaking because notice and comment rulemaking under section 553 of the APA is not required.⁸ Section 4(b)(2) of the 2015 Act specifically excludes this rulemaking implementing each adjustment following the initial catch-up adjustment from section 553 of the APA.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96–39), as amended by the Uruguay Round Agreements Act (Public Law 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that it would impose identical inflation adjusted civil penalties on domestic and international entities that violate aviation safety, hazmat, and commercial space provisions in Titles 49 and 51 of the U.S. Code and regulations issued under those provisions, and thus would have a neutral trade impact. Furthermore, the inflation adjustment is a legitimate domestic objective preserving the existing deterrent impact of aviation, hazmat, and commercial space safety statutes and regulations. Therefore, we have determined that this rule will result in a neutral impact on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such

a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there are no current or new requirements for information collection associated with this rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. 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 5–6.6.f, which covers regulations not expected to cause any potentially significant environmental impacts. The FAA has also determined that there are no extraordinary circumstances requiring an environmental assessment or environmental impact statement.

Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

⁷ The 2015 Act, Public Law 114–74, codified at 28 U.S.C. 2461 note, specifies the method of calculating the inflation adjustment, and OMB Memorandum M–17–11 provides the guidance required by the 2015 Act for agencies in calculating the 2017 annual inflation adjustment.

⁸ 5 U.S.C. 604(a).

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a “significant energy action” under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA’s Regulations and Policies Web page at http://www.faa.gov/regulations_policies; or
3. Accessing the Government Printing Office’s Web page at <http://www.gpo.gov/fdsys>.

You can also get a copy by sending a request to the Federal Aviation

Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

List of Subjects

14 CFR Part 13

Administrative practice and procedure, Air transportation, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

14 CFR Part 406

Administrative procedure and review, Commercial space transportation, Enforcement, Investigations, Penalties, Rules of adjudication.

The Amendment

Accordingly, the interim rule amending 14 CFR parts 13 and 406 which was published at 81 FR 43463 on July 5, 2016, is adopted as a final rule with the following changes:

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

- 1. The authority citation for part 13 is revised to read as follows:

Authority: 18 U.S.C. 6002, 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121–5124, 40113–40114, 44103–44106, 44701–44703, 44709–44710, 44713, 44725, 46101–46111, 46301, 46302 (for a violation of 49 U.S.C. 46504), 46304–46316, 46318, 46501–46502, 46504–46507, 47106, 47107, 47111, 47122, 47306, 47531–47532; 49 CFR 1.83.

- 2. Amend § 13.301 by revising the section heading and paragraph (c) to read as follows:

§ 13.301 Inflation adjustments of civil monetary penalties.

* * * * *

(c) Minimum and maximum civil monetary penalties within the jurisdiction of the FAA are as follows:

TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS OCCURRING ON OR AFTER JANUARY 15, 2017

United States Code citation	Civil monetary penalty description	2016 minimum penalty amount	New minimum penalty amount	2016 maximum penalty amount	New maximum penalty amount
49 U.S.C. 5123(a)(1).	Violation of hazardous materials transportation law.	N/A	N/A	\$77,114	\$78,376.
49 U.S.C. 5123(a)(2).	Violation of hazardous materials transportation law resulting in death, serious illness, severe injury, or substantial property destruction.	N/A	N/A	179,933	182,877.
49 U.S.C. 5123(a)(3).	Violation of hazardous materials transportation law relating to training.	\$463	\$471	77,114	78,376.
49 U.S.C. 46301(a)(1).	Violation by a person other than an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B).	N/A	N/A	32,140	32,666.
49 U.S.C. 46301(a)(1).	Violation by an airman serving as an airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B)).	N/A	N/A	1,414	1,437.
49 U.S.C. 46301(a)(1).	Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered in 49 U.S.C. 46301(a)(5)).	N/A	N/A	1,414	1,437.
49 U.S.C. 46301(a)(3).	Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133.	N/A	N/A	Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues that are used in violation of such section.	No change.
49 U.S.C. 46301(a)(5)(A).	Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A)(i) or (ii).	N/A	N/A	12,856	13,066.
49 U.S.C. 46301(a)(5)(B)(i).	Violation by an individual or small business concern related to the transportation of hazardous materials.	N/A	N/A	12,856	13,066.

TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS OCCURRING ON OR AFTER JANUARY 15, 2017—Continued

United States Code citation	Civil monetary penalty description	2016 minimum penalty amount	New minimum penalty amount	2016 maximum penalty amount	New maximum penalty amount
49 U.S.C. 46301(a)(5)(B)(ii).	Violation by an individual or small business concern related to the registration or recordation under 49 U.S.C. chapter 441, of an aircraft not used to provide air transportation.	N/A	N/A	12,856	13,066.
49 U.S.C. 46301(a)(5)(B)(iii).	Violation by an individual or small business concern of 49 U.S.C. 44718(d), relating to limitation on construction or establishment of landfills.	N/A	N/A	12,856	13,066.
49 U.S.C. 46301(a)(5)(B)(iv).	Violation by an individual or small business concern of 49 U.S.C. 44725, relating to the safe disposal of life-limited aircraft parts.	N/A	N/A	12,856	13,066.
49 U.S.C. 46301(b)	Tampering with a smoke alarm device	N/A	N/A	4,126	4,194.
49 U.S.C. 46302	Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States.	N/A	N/A	22,587	22,957.
49 U.S.C. 46318	Interference with cabin or flight crew	N/A	N/A	34,172	34,731.
49 U.S.C. 46319	Permanent closure of an airport without providing sufficient notice.	N/A	N/A	12,856	13,066.
49 U.S.C. 47531	Violation of 49 U.S.C. 47528–47530, relating to the prohibition of operating certain aircraft not complying with stage 3 noise levels.	N/A	N/A	See 49 U.S.C. 46301(a)(1) and (a)(5), above.	See 49 U.S.C. 46301(a)(1) and (a)(5), above.

CHAPTER III—COMMERCIAL SPACE TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 406—INVESTIGATIONS, ENFORCEMENT, AND ADMINISTRATIVE REVIEW

■ 3. The authority citation for part 406 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 4. Amend § 406.9 by revising paragraph (a) to read as follows:

§ 406.9 Civil penalties.

(a) *Civil penalty liability.* Under 51 U.S.C. 50917(c), a person found by the FAA to have violated a requirement of the Act, a regulation issued under the Act, or any term or condition of a license or permit issued or transferred under the Act, is liable to the United States for a civil penalty of not more than \$229,562 for each violation. A separate violation occurs for each day the violation continues.

* * * * *

Issued under the authority provided by 28 U.S.C. 2461 note, 49 U.S.C. 106(f) and 44701(a), and 51 U.S.C. 50901 in Washington, DC, on February 13, 2017.

Michael P. Huerta,
Administrator.

[FR Doc. 2017–06766 Filed 4–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9402; Special Conditions No. 25–655–SC]

Special Conditions: Embraer S.A. Model ERJ 190–300 Airplane; Flight Envelope Protection, General Limiting Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer S.A. (Embraer) Model ERJ 190–300 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is a new control architecture and a full digital flight-control system, both of which provide flight-envelope protections. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level

of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Embraer on April 10, 2017. We must receive your comments by May 25, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9402 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to <http://www.regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the

individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov/>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov/> at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flightcrew Interface, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-2011; facsimile (425) 227-1320.

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been subject to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**.

Comments Invited

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

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On September 13, 2013, Embraer applied for an amendment to Type Certificate No. A57NM to include the new Model ERJ 190-300 airplane. The Model ERJ 190-300 airplane, which is a derivative of the Embraer Model ERJ 190-100 STD airplane currently approved under Type Certificate No. A57NM, is a 97- to 114-passenger transport-category airplane, designed

with a new wing with a high aspect ratio and raked wingtip, and a new electrical-distribution system. The maximum take-off weight is 124,340 lbs (56,400 kg).

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Embraer must show that the Model ERJ 190-300 airplane meets the applicable provisions of the regulations listed in Type Certificate No. A57NM, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model ERJ 190-300 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Embraer Model ERJ 190-300 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Embraer Model ERJ 190-300 airplane will incorporate the following novel or unusual design feature: A new control architecture and a full digital flight-control system, both of which provide flight-envelope protections.

Discussion

The applicable airworthiness regulation that applies to these special conditions is 14 CFR 25.143. The purpose of § 25.143 is to verify that any airplane operational maneuvers conducted within the airplane operational envelope can be

accomplished smoothly with average piloting skill, and without exceeding any structural limits. The pilot should be able to predict the airplane response to any control input. During the course of the flight-test program, the pilot determines compliance with § 25.143 primarily through qualitative methods. During flight test, the pilot evaluates all of the following:

- The interface between each protection function,
- Transitions from one mode to another,
- The aircraft response to intentional dynamic maneuvering, whenever applicable, through dedicated maneuvers,
- General controllability,
- High speed characteristics, and
- High angle-of-attack.

However, § 25.143 does not adequately ensure that the novel or unusual feature of the Embraer Model ERJ 190-300 airplane will have a level of safety equivalent to that of existing standards. These special conditions are required to accommodate the flight-envelope-limiting systems in the Model ERJ 190-300 airplane.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ 190-300 airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

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

response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model ERJ 190–300 airplanes.

1. General Limiting Requirements

a. Onset characteristics of each envelope protection feature must be smooth, appropriate to the phase of flight and type of maneuver, and not in conflict with the ability of the pilot to satisfactorily change airplane flight path, speed, or attitude as needed.

b. Limit values of protected flight parameters (and if applicable, associated warning thresholds) must be compatible with the following:

- i. Airplane structural limits,
 - ii. Required safe and controllable maneuvering of the airplane, and
 - iii. Margins to critical conditions.
- Unsafe flight characteristics/conditions must not result if dynamic maneuvering, airframe and system tolerances (both manufacturing and in-service), and non-steady atmospheric conditions, in any appropriate combination and phase of flight, can produce a limited flight parameter beyond the nominal design-limit value.

c. The airplane must be responsive to intentional dynamic maneuvering to within a suitable range of the parameter limit. Dynamic characteristics such as damping and overshoot must also be appropriate for the flight maneuver and limit parameter in question.

d. When simultaneous envelope limiting is engaged, adverse coupling or adverse priority must not result.

2. Failure States

a. Electronic flight-control-system failures (including sensors) must not result in a condition where a parameter is limited to such a reduced value that safe and controllable maneuvering is no longer available.

b. The crew must be alerted by suitable means if any change in envelope limiting or maneuverability is produced by single or multiple failures of the electronic flight-control system not shown to be extremely improbable.

Issued in Renton, Washington, on March 15, 2017.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–07060 Filed 4–7–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0189; Directorate Identifier 2017–SW–008–AD; Amendment 39–18847; AD 2017–05–51]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are publishing a new airworthiness directive (AD) for Bell Helicopter Textron Canada (Bell) Model 429 helicopters. This AD requires inspecting the condenser blower motor (motor) and condenser blower (blower) to determine if the motor is securely attached to the blower support (shroud). This AD is prompted by a report that the motor detached from the blower. The actions of this AD are intended to prevent an unsafe condition on these products.

DATES: This AD becomes effective April 25, 2017 to all persons except those persons to whom it was made immediately effective by Emergency AD 2017–05–51, issued on March 3, 2017, which contains the requirements of this AD.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of April 25, 2017. We must receive comments on this AD by June 9, 2017.

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

- **Federal eRulemaking Docket:** Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.
- **Fax:** 202–493–2251.
- **Mail:** Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

- **Hand Delivery:** Deliver to the “Mail” address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0189; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any incorporated by reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Air Comm Corporation, 1575 West 124th Avenue, Westminster, CO 80234; telephone: (303) 440–4075 (during business hours) or (720) 233–8330 (after hours); email: service@aircommcorp.com; Web site: <http://www.aircommcorp.com/contact>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0189.

FOR FURTHER INFORMATION CONTACT: Matthew Bryant, Aerospace Engineer, Denver Aircraft Certification Office, FAA, Technical Operations Center, 26805 East 68th Avenue, Room 214, Denver CO 80249; phone (303) 342–1092; fax (303) 342–1088; email Matthew.Bryant@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we

receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

On March 3, 2017, we issued Emergency AD 2017–05–51 to correct an unsafe condition on Bell Model 429 helicopters with an Air Comm Corporation (Air Comm) air conditioning system part number (P/N) 429EC–200 or 429EC–202 installed. Emergency AD 2017–05–51 was sent previously to all known U.S. owners and operators of these helicopters. Emergency AD 2017–05–51 requires inspecting the motor and blower to determine if the motor is securely attached to the shroud.

Emergency AD 2017–05–51 was prompted by a report that the motor detached from the blower. The motor is secured to the shroud by three screw fasteners with thread locker applied. The report states that the detached motor was resting on the flight controls.

An initial investigation indicates that the motor mount fasteners may not have had the thread locker adhesive applied during production. However, the root cause is under investigation. The motor fell on the collective control tube, causing wear damage to the control tube. The motor's power wiring also was on the collective control tube near hydraulic and fuel lines. The actions in Emergency AD 2017–05–51 are intended to prevent the motor from detaching, causing failure of the primary flight controls and subsequent loss of helicopter control.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Related Service Information Under 1 CFR Part 51

We reviewed Air Comm Service Bulletin 429–201–1, Revision NC, dated February 17, 2017 (SB 429–201–1), which advises inspecting the motor to determine whether it is attached to the blower assembly within 20 flight hours. If the motor is not attached to the blower assembly, SB 429–201–1 advises reporting the detachment to Air Comm and inspecting the surrounding area for damage. If any surrounding parts are damaged, SB 429–201–1 specifies replacing or repairing the damaged

parts. SB 429–201–1 then specifies replacing the blower assembly if parts are available and deactivating the air conditioning system if parts are not available. SB 429–201–1 also provides instructions if any P/N MS27039–1–15 fasteners are missing or loose or if the motor is not secured firmly to the blower assembly. These instructions include rotating the fan blades by hand and verifying the clearance between the blades and the shroud. If the fan blades are scraping or rubbing against the shroud or if the blades cause visible damage to the shroud, SB 429–201–1 advises replacing the blower assembly if parts are available. If parts are not available, SB 429–201–1 advises deactivating the air conditioning system. If the motor is secure, SB 429–201–1 provides instructions for replacing any missing fasteners and removing and reinstalling any existing fasteners with thread locker.

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.

AD Requirements

This AD requires, before further flight and at intervals not to exceed 25 hours time-in-service (TIS), inspecting the air conditioner condenser blower for motor attachment and for missing or loose fasteners. If the motor is not attached or if a fastener is missing or loose, this AD requires deactivating the air conditioning system. If the motor is not attached, this AD also requires inspecting the collective flight control tube, the area under the forward transmission cowl, and each wiring harness, and depending on the findings, repairing or replacing the affected parts. Additionally, if the motor is not attached or if the motor is attached but any fasteners are missing, this AD requires inspecting for and removing any found detached hardware. Deactivating the air conditioning system constitutes terminating action for the repetitive inspections required by this AD. This AD also requires reporting certain information to the FAA within 10 days.

Differences Between This AD and the Service Information

SB 429–201–1 advises performing the initial inspection within 20 hours TIS. This AD requires the initial inspection before further flight. SB 429–201–1 advises reporting certain incidents to Air Comm, whereas this AD requires reporting certain information to the FAA. SB 429–201–1 does not specify inspecting for and removing missing

hardware, whereas this AD does. If replacement parts are available, SB 429–201–1 advises replacing the blower, while this AD makes no allowance for replacing the blower except by alternate means of compliance. If fasteners are missing or loose but the motor is secure, SB 429–201–1 advises replacing missing fasteners and removing and reinstalling existing fasteners with thread locker and a torque stripe. This AD requires removing the blower assembly if fasteners are missing or loose but the motor is still secure. SB 429–201–1 does not require repetitive inspections, while this AD requires the inspection every 25 hours time-in-service until the air conditioning system is deactivated.

Interim Action

We consider this AD to be an interim action. The inspection report that is required by this AD will enable us to obtain better insight into the cause of the motor's detachment, and help us develop final action to address this unsafe condition. The design approval holder is also currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

Costs of Compliance

We estimate that this AD affects 78 helicopters of U.S. Registry and that labor costs average \$85 per work-hour. Based on these estimates, we expect the following costs:

- Inspecting the motor attachment requires 1 work-hour and no parts for a total cost of \$85 per helicopter, and \$6,630 for the U.S. fleet, per inspection cycle.
- Removing the motor and deactivating the air conditioning requires 2 work-hours and no parts for a total cost of \$170 per helicopter.
- Removing the blower assembly and deactivating the air conditioning requires 13 work-hours and no parts for a total cost of \$1,105 per helicopter.
- Reporting the findings to the FAA requires 1 work-hour and no parts for a total cost of \$85 per helicopter.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The

paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting required by this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES-200.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we found and continue to find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the required initial inspection must be accomplished before further flight and the recurring inspection must be accomplished at intervals not to exceed 25 hours TIS. These helicopters, typically used for police and medical transport, are expected to reach 25 hours TIS within a few weeks.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comments before issuing this AD were impracticable and contrary to public interest and good cause existed to make the AD effective immediately by Emergency AD 2017-05-51, issued on March 3, 2017, to all known U.S. owners and operators of these helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for

safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017-05-51 Bell Helicopter Textron Canada: Amendment 39-18847; Docket No. FAA-2017-0189; Directorate Identifier 2017-SW-008-AD.

(a) Applicability

This AD applies to Bell Helicopter Textron Canada (Bell) Model 429 helicopters with an Air Comm Corporation air conditioning system part number (P/N) 429EC-200 or

429EC-202 installed, certificated in any category.

Note 1 to paragraph (a) of this AD: Air conditioning system P/N 429EC-200 and 429EC-202 are identifiable by a three-screw installation as depicted in Figure 1 of Air Comm Corporation Service Bulletin 429-201-1, Revision NC, dated February 17, 2017 (SB 429-201-1).

(b) Unsafe Condition

This AD defines the unsafe condition as a condenser blower motor (motor) detaching from the condenser blower support (shroud). This condition could lead to failure of the primary flight controls and subsequent loss of helicopter control.

(c) Effective Date

This AD becomes effective April 25, 2017 to all persons except those persons to whom it was made immediately effective by Emergency AD 2017-05-51, issued on March 3, 2017, which contains the requirements of this AD.

(d) Compliance

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

(e) Required Actions

Before further flight, and thereafter at intervals not to exceed 25 hours time-in-service:

(1) Inspect the motor and condenser blower to determine whether the motor is attached to the shroud.

(i) If the motor is not attached, before further flight:

(A) Inspect the collective flight control tube for loss of protective primer, a scratch, any gouging, and a dent. If there is any loss of protective primer, a scratch, any gouging, or a dent, repair or replace the control tube.

(B) Inspect the area under the forward transmission cowling for loss of protective primer, a scratch, any gouging, and a dent. Inspect each wiring harness for any cuts, chafing, and exposed wires. If there is any loss of protective primer, a scratch, any gouging, a dent, or if any wiring harness has a cut, chafing, or an exposed wire, repair or replace the affected parts.

(C) Inspect the area under the forward transmission cowling for the three fasteners as depicted in Figure 1 of SB 429-201-1. Also inspect for the crimp-on external fan retaining ring (crimp ring) and the slotted fan drive spring (commonly known as a roll pin), which may have fallen loose with the motor.

Remove any fasteners, the crimp ring, and the roll pin if found detached.

(D) Deactivate the air conditioning system by following the instructions in Procedure, paragraphs B.2.d.i. through B.2.d.v., of SB 429–201–1.

(ii) If the motor is attached to the shroud but a fastener is missing or loose, before further flight:

(A) Remove any detached fasteners found in the area under the forward transmission cowling.

(B) Deactivate the air conditioning system as follows:

(1) Pull and red collar the air conditioning COND circuit breaker.

(2) Pull and red collar the air-conditioning COMP circuit breaker.

(3) Remove the compressor drive belt.

(4) Remove the condenser blower assembly.

(2) Deactivating the air conditioning system as required by paragraph (e)(1) of this AD constitutes terminating action for the repetitive inspections required by paragraph (e)(1) of this AD.

(3) If the air conditioning system is deactivated as required by paragraph (e)(1) of this AD, within 10 days after completing the inspection, report the information requested in Appendix 1 to this AD by mail to the Manager, Denver Aircraft Certification Office, FAA, Technical Operations Center, 26805 East 68th Avenue, Room 214, Denver, CO 80249, ATTN: Matthew Bryant; by fax to (303) 342–1088; or by email to Matthew.Bryant@faa.gov.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Denver Aircraft Certification Office, FAA, may approve

AMOCs for this AD. Send your proposal to: Matthew Bryant, Aerospace Engineer, Denver Aircraft Certification Office, FAA, Technical Operations Center, 26805 East 68th Avenue, Room 214, Denver, CO 80249; fax (303) 342–1088; email Matthew.Bryant@faa.gov.

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

(g) Subject

Joint Aircraft Service Component (JASC) Code: 2150, Cabin Cooling System.

(h) 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) Air Comm Corporation Service Bulletin 429–201–1, Revision NC, dated February 17, 2017.

(ii) Reserved.

(3) For Air Comm Corporation service information identified in this AD, contact Air Comm Corporation, 1575 West 124th Avenue, Westminster, CO 80234; telephone: (303) 440–4075 (during business hours) or (720) 233–

8330 (after hours); email: service@aircommcorp.com; Web site: <http://www.aircommcorp.com/contact>.

(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 March 29, 2017.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

Appendix 1 to AD 2017–05–51

Provide the following information by mail to the Manager, Denver Aircraft Certification Office, FAA, Technical Operations Center, 26805 East 68th Avenue, Room 214, Denver, CO 80249, ATTN: Matthew Bryant; by fax to (303) 342–1088; or by email to Matthew.Bryant@faa.gov:

For inspection being accomplished (Initial or Repetitive), record inspection findings below and provide photos if possible.

AD 2017–05–51	Inspection findings
Aircraft S/N or N-Number Air Conditioner Installation S/N (Laser etched on compressor mount) ... Aircraft Location Condition Is this a single evaporator installation or a dual evaporator installation? Was the motor still attached? Were there any missing or loose fasteners? Were any of the loose fasteners found in the surrounding area? Did the found fasteners show evidence of thread locker being applied? Has the condenser blower (blower) been replaced following the initial installation of the air conditioning system? What was the reason for the blower replacement? Aircraft TIS when blower was replaced	Aircraft hours time-in-service (TIS). Aircraft TIS when air conditioning system was installed. Estimated percent air conditioner operating time. Operator and maintenance facility contact information. Findings.

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2016-8851; Directorate Identifier 2016-NM-070-AD; Amendment 39-18831; AD 2017-06-07]

RIN 2120-AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330-200 Freighter, -200, and -300 series airplanes; and Airbus Model A340-200, -300, -500, and -600 series airplanes. This AD was prompted by reports that nonconforming aluminum alloy was used to manufacture several structural parts on the inboard flap. This AD requires identification of the potentially affected inboard flap parts, a one-time eddy current inspection to identify which material the parts are made of, and, depending on findings, replacement with serviceable parts. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 15, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-8851.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-8851; or in person at the Docket Management Facility between 9 a.m.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A330-200 Freighter, -200, and -300 series airplanes; and Airbus Model A340-500 and -600 series airplanes. The NPRM published in the *Federal Register* on August 31, 2016 (81 FR 59922) (“the NPRM”). The NPRM was prompted by reports that nonconforming aluminum alloy was used to manufacture several structural parts on the inboard flap. The NPRM proposed to require identification of the potentially affected inboard flap parts, a one-time eddy current inspection to identify which material the parts are made of, and, depending on findings, replacement with serviceable parts. We are issuing this AD to detect and correct structural parts of inboard flaps made of nonconforming aluminum alloy, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016-0231, dated November 22, 2016 (“EASA AD 2016-0231”) (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), which superseded EASA Airworthiness Directive 2016-0082, dated April 27, 2016 (“EASA AD 2016-0082”), to correct an unsafe condition all Airbus Model A330-200 Freighter, -200, and -300 series airplanes; and Airbus Model A340-200, -300, -500 and -600 series airplanes. The MCAI states:

Following an Airbus quality control review on the final assembly line, it was discovered that non-conforming aluminium alloy was used to manufacture several structural parts on the inboard flap.

This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.

To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A330-57-3120 and SB A340-57-5036 to provide instructions to identify and inspect the potentially affected parts.

Consequently, EASA issued AD 2016-0082 to require identification of the potentially affected inboard flap parts, a one-time special detailed inspection (SDI) [eddy current measurement] to identify which material they are made of and, depending on findings, replacement with serviceable parts.

Since EASA AD 2016-0082 was issued, it was confirmed that flaps, initially installed on A340-500 and A340-600 aeroplanes, may also have been installed in service on A340-200 or A340-300 aeroplanes. As this installation was not done during production, no SB was published for these models.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2016-0082 [which corresponded to the FAA NPRM], which is superseded, expands the Applicability to include A340-200 and A340-300 aeroplanes, corrects a typographical error in Appendix 1 of this [EASA] AD for one affected flap, Right Hand (RH) serial number (s/n) “TB 11411” in place of “TB 14411” (date of first operation: 19/04/13) and identified in bold in Appendix 1, and adds the prefix “TB” to the s/n’s of all Left Hand (LH) and RH flaps, which was inadvertently omitted in Appendix 1 of [EASA] AD 2016-0082. This [EASA] AD also allows, under certain conditions, installation of an affected inboard flap on an aeroplane.

Airbus Model A340-200 and -300 series airplanes have been added to the applicability of this AD. Since there are currently no domestic operators of these added airplanes, notice and opportunity for public comment before issuing this AD are unnecessary.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-8851.

Comments

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

Request To Account for a Superseding EASA Airworthiness Directive

Airbus commented that EASA was planning to supersede EASA AD 2016-0082 with EASA AD 2016-0231, which would update the AD applicability, correct a certain part serial number, and add the prefix “TB” to the serial

numbers of all flaps. (These changes are described in the MCAI.)

We agree with the commenter and have revised this AD to update the applicability, correct a serial number for a right-hand flap (from TB14411 to TB11411), and add the prefix “TB” before each flap serial number.

Requests To Extend Compliance Time for Part Replacement

Airbus and American Airlines requested that the requirement to replace an affected part within 30 days after performing the eddy current inspection be changed to allow a longer compliance time. Paragraph (i) of the proposed AD states that if a part requires replacement due to a nonconforming material finding per paragraph (h) of the proposed AD, the part must be replaced within 30 days after the finding in accordance with a method approved by the FAA, EASA, or Airbus’s EASA Design Organization Approval (DOA). EASA AD 2016–0082, paragraph (3), states, for the same nonconforming material finding, to contact Airbus within 30 days of the finding for approved replacement instructions, and within the compliance time(s) specified in those instructions to replace the nonconforming parts accordingly. The commenters stated that

this allows more flexibility for replacement actions.

We agree that additional time can be allowed for replacement of affected parts if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus’s EASA Design Organization Approval (DOA). We have revised paragraph (i) of this AD accordingly. This provision corresponds to EASA AD 2016–0231, which superseded EASA AD 2016–0082.

Removal of Note From Regulatory Text

We have removed Note 2 to paragraph (h) of the proposed AD, and added text to paragraph (h) of this AD to clarify that the date of the first operation of the flap is specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A330–57–3120, dated September 18, 2015; and Airbus Service Bulletin A340–57–5036, dated September 18, 2015. The service information describes procedures for inspecting inboard flaps using eddy current inspection methods to determine the materials used. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

We estimate that this AD affects 31 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	5 work-hours × \$85 per hour = \$425	\$0	\$425	\$13,175

We estimate the following costs to do any necessary replacements that would

be required based on the results of the required inspection. We have no way of

determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove and Replace Flap	60 work-hours × \$85 per hour = \$5,100	Unavailable	\$5,100

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. The cost of purchasing a flap spare is not available. As a result, we have included only labor costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. “Subtitle VII: Aviation Programs,” describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this 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):

2017-06-07 Airbus: Amendment 39-18831; Docket No. FAA-2016-8851; Directorate Identifier 2016-NM-070-AD.

(a) Effective Date

This AD is effective May 15, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330-223F and -243F airplanes; A330-201, -202, -203, -223, and -243 airplanes; A330-301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes; A340-211, -212, and -213 airplanes; A340-311, -312, and -313 airplanes; A340-541 airplanes; and A340-642 airplanes; certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports that nonconforming aluminum alloy was used to manufacture several structural parts on the inboard flap. We are issuing this AD to detect and correct structural parts of inboard flaps made of nonconforming aluminum alloy, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Inboard Flap Serial Number Identification

Within 24 months after the effective date of this AD: Inspect each left-hand (LH) and right-hand (RH) inboard flap, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-57-3120, dated September 18, 2015; or Airbus Service Bulletin A340-57-5036, dated September 18, 2015; as applicable; to identify the serial number. A review of airplane delivery and maintenance records is acceptable in lieu of inspecting the inboard flaps, provided those records can be relied upon for that purpose and the serial number of the affected parts can be conclusively identified from that review. The serial numbers of affected inboard flaps are identified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD.

Note 1 to paragraphs (g) and (h) of this AD: Airbus Service Bulletin A330-57-3120, dated September 18, 2015; and Airbus Service Bulletin A340-57-5036, dated September 18, 2015; list the serial numbers of potentially affected LH and RH inboard flaps and the corresponding airplane serial number on which these parts were installed during production. The airplane serial number list is for information only, as it cannot be excluded that a potentially affected inboard flap has been removed from an airplane and later re-installed on another airplane.

FIGURE 1 TO PARAGRAPHS (g), (j)(1), AND (j)(2) OF THIS AD—AFFECTED FLAP SERIAL NUMBERS (S/N)

Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n
29/09/10	TB 11004	TB 11004	28/02/11	TB 11202	TB 11201	19/12/12	TB 11349	TB 11349
21/07/09	TB 11030	TB 11028	22/02/11	TB 11198	TB 11202	17/12/12	TB 11352	TB 11352
17/08/09	TB 11034	TB 11002	07/03/11	TB 11203	TB 11203	15/11/12	TB 11353	TB 11353
21/05/10	TB 11031	TB 11031	30/03/11	TB 11204	TB 11204	30/10/12	TB 11354	TB 11354
09/08/10	TB 11071	TB 11071	31/05/11	TB 11205	TB 11229	22/10/12	TB 11355	TB 11355
10/07/09	TB 11033	TB 11057	15/03/11	TB 11206	TB 11206	31/10/12	TB 11383	TB 11357
06/08/10	TB 11036	TB 11098	24/03/11	TB 11208	TB 11208	30/10/12	TB 11380	TB 11356
29/07/09	TB 11035	TB 11035	04/04/11	TB 11209	TB 11209	26/11/12	TB 11359	TB 11393
19/08/09	TB 11057	TB 11036	22/03/11	TB 11210	TB 11210	30/11/12	TB 11361	TB 11361
23/12/09	TB 11037	TB 11033	23/03/11	TB 11211	TB 11213	16/11/12	TB 11358	TB 11358
14/09/09	TB 11038	TB 11038	24/03/11	TB 11212	TB 11212	30/11/12	TB 11325	TB 11360
17/09/10	TB 11042	TB 11039	14/04/11	TB 11213	TB 11214	12/12/12	TB 11399	TB 11365
23/09/09	TB 11040	TB 11040	14/04/11	TB 11229	TB 11215	26/11/12	TB 11362	TB 11362
11/09/09	TB 11041	TB 11041	11/04/11	TB 11215	TB 11217	09/11/12	TB 11363	TB 11363
12/05/10	TB 11046	TB 11042	06/04/11	TB 11216	TB 11216	30/11/12	TB 11364	TB 11364
01/10/09	TB 11043	TB 11043	12/04/11	TB 11217	TB 11219	23/11/12	TB 11365	TB 11368
01/10/09	TB 11044	TB 11044	15/04/11	TB 11218	TB 11218	07/12/12	TB 11366	TB 11366
08/09/09	TB 11047	TB 11045	04/05/11	TB 11219	TB 11221	06/12/12	TB 11367	TB 11367
07/09/09	TB 11049	TB 11046	29/04/11	TB 11220	TB 11220	19/12/12	TB 11368	TB 11370
18/09/09	TB 1970	TB 11047	11/05/11	TB 11238	TB 11222	11/12/12	TB 11369	TB 11369
30/09/09	TB 11048	TB 11048	13/05/11	TB 11222	TB 11223	21/12/12	TB 11370	TB 11372
26/10/09	TB 11055	TB 11049	06/05/11	TB 11223	TB 11224	13/12/12	TB 11372	TB 11375
03/09/10	TB 11051	TB 11051	19/05/11	TB 11224	TB 11225	20/12/12	TB 11373	TB 11373
30/10/09	TB 11054	TB 11054	19/05/11	TB 11225	TB 11205	21/12/12	TB 11374	TB 11374
19/11/09	TB 11053	TB 11053	29/06/11	TB 11226	TB 11226	16/01/13	TB 11375	TB 11377
28/10/10	TB 11008	TB 11019	25/05/11	TB 11227	TB 11227	11/01/13	TB 11376	TB 11376
27/10/09	TB 11015	TB 11055	16/05/11	TB 11228	TB 11228	15/01/13	TB 11377	TB 11350
28/10/09	TB 11059	TB 11059	10/06/11	TB 11092	TB 11092	05/02/13	TB 11378	TB 11381
29/10/09	TB 11060	TB 11060	23/11/11	TB 11231	TB 11231	25/01/13	TB 11379	TB 11379
16/11/10	TB 11063	TB 11063	08/07/11	TB 11232	TB 11232	18/01/13	TB 11382	TB 11380
23/12/09	TB 11061	TB 11061	23/06/11	TB 11234	TB 11234	22/03/13	TB 11381	TB 11382

FIGURE 1 TO PARAGRAPHS (g), (j)(1), AND (j)(2) OF THIS AD—AFFECTED FLAP SERIAL NUMBERS (S/N)—Continued

Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n
23/11/09	TB 11066	TB 11066	22/06/11	TB 11233	TB 11233	27/02/13	TB 11371	TB 11371
03/11/10	TB 11070	TB 11070	24/06/11	TB 11237	TB 11237	08/03/13	TB 11385	TB 11383
30/11/09	TB 11065	TB 11065	15/06/11	TB 11235	TB 11235	06/02/13	TB 11384	TB 11384
30/11/09	TB 11032	TB 11032	01/07/11	TB 11236	TB 11236	05/02/13	TB 11386	TB 11385
18/11/09	TB 11067	TB 11067	12/07/11	TB 11239	TB 11239	19/02/13	TB 11406	TB 11389
17/12/09	TB 11072	TB 11072	25/11/11	TB 11115	TB 11115	16/03/13	TB 11387	TB 11387
24/11/09	TB 11074	TB 11074	29/07/11	TB 11240	TB 11240	25/02/13	TB 11388	TB 11388
17/09/10	TB 11147	TB 11147	06/10/11	TB 11243	TB 11243	15/02/13	TB 11390	TB 11390
23/12/09	TB 11095	TB 11095	29/07/11	TB 11244	TB 11241	25/02/13	TB 11392	TB 11392
10/12/09	TB 11075	TB 11075	03/08/11	TB 11245	TB 11245	01/03/13	TB 11391	TB 11403
07/12/09	TB 11076	TB 11076	29/08/11	TB 11246	TB 11244	01/03/13	TB 11394	TB 11394
23/12/09	TB 11077	TB 11077	22/08/11	TB 11247	TB 11247	11/03/13	TB 11393	TB 11395
22/12/09	TB 11069	TB 11069	20/12/11	TB 11248	TB 11246	08/03/13	TB 11397	TB 11397
07/12/09	TB 11079	TB 11079	30/08/11	TB 11249	TB 11249	14/03/13	TB 11395	TB 11399
19/01/10	TB 11078	TB 11078	25/08/11	TB 11136	TB 11248	18/03/13	TB 11396	TB 11396
11/02/10	TB 11081	TB 11081	06/09/11	TB 11250	TB 11250	18/03/13	TB 11356	TB 11400
26/03/10	TB 11080	TB 11080	27/09/11	TB 11252	TB 11254	28/03/13	TB 11398	TB 11398
28/01/10	TB 11082	TB 11082	28/09/11	TB 11221	TB 11251	22/03/13	TB 11401	TB 11401
28/01/10	TB 11084	TB 11084	15/09/11	TB 11214	TB 11255	09/04/13	TB 11400	TB 11402
04/02/10	TB 11098	TB 11030	20/10/11	TB 11266	TB 11256	21/03/13	TB 11404	TB 11404
29/01/10	TB 11085	TB 11085	19/12/11	TB 11258	TB 11258	09/04/13	TB 11402	TB 11405
05/02/10	TB 11039	TB 11037	19/10/11	TB 11255	TB 11259	26/04/13	TB 11403	TB 11407
29/03/10	TB 11086	TB 11086	10/11/11	TB 11259	TB 11260	15/04/13	TB 11360	TB 11406
09/03/10	TB 11087	TB 11087	05/10/11	TB 11261	TB 11261	11/04/13	TB 11407	TB 11408
15/04/10	TB 11088	TB 11088	17/10/11	TB 11260	TB 11263	19/04/13	TB 11409	TB 11409
16/04/10	TB 11089	TB 11089	10/11/11	TB 11254	TB 11252	24/04/13	TB 11410	TB 11410
29/03/10	TB 11090	TB 11090	17/11/11	TB 11262	TB 11262	19/04/13	TB 11411	TB 11411
11/06/10	TB 11091	TB 11091	16/11/11	TB 11263	TB 11264	22/04/13	TB 11408	TB 11412
22/06/11	TB 11230	TB 11230	16/11/11	TB 11264	TB 11265	26/04/13	TB 11413	TB 11413
23/03/10	TB 11093	TB 11093	25/11/11	TB 11265	TB 11266	30/04/13	TB 11414	TB 11414
23/02/10	TB 11094	TB 11094	28/11/11	TB 11267	TB 11267	22/04/13	TB 11412	TB 11415
24/03/10	TB 11073	TB 11073	05/12/11	TB 11268	TB 11268	15/07/13	TB 11416	TB 11416
31/03/10	TB 11096	TB 11096	29/11/11	TB 11270	TB 11270	17/05/13	TB 11405	TB 11417
16/03/10	TB 11097	TB 11097	06/12/11	TB 11271	TB 11271	28/05/13	TB 11415	TB 11418
10/03/10	TB 11101	TB 11101	12/12/11	TB 11272	TB 11272	23/05/13	TB 11419	TB 11419
15/03/10	TB 11099	TB 11099	07/12/11	TB 11275	TB 11275	17/05/13	TB 11417	TB 11421
23/03/10	TB 11100	TB 11100	14/12/11	TB 11269	TB 11269	30/05/13	TB 11418	TB 11420
16/06/10	TB 11105	TB 11105	15/12/11	TB 11274	TB 11274	30/05/13	TB 11357	TB 11386
07/12/10	TB 11102	TB 11130	12/12/11	TB 11276	TB 11276	27/05/13	TB 11420	TB 11422
13/04/10	TB 11106	TB 11106	11/01/12	TB 11279	TB 11279	13/06/13	TB 11421	TB 11423
27/04/10	TB 11104	TB 11104	20/01/12	TB 11278	TB 11278	04/06/13	TB 11424	TB 11424
30/04/10	TB 11103	TB 11103	19/01/12	TB 11164	TB 11164	17/06/13	TB 11426	TB 11378
07/04/10	TB 11108	TB 11108	12/01/12	TB 11277	TB 11277	10/06/13	TB 11423	TB 11427
16/04/10	TB 11133	TB 11133	19/01/12	TB 11280	TB 11281	27/06/13	TB 11428	TB 11428
10/05/10	TB 11114	TB 11114	23/01/12	TB 11298	TB 11282	20/06/13	TB 11425	TB 11425
10/05/10	TB 11110	TB 11110	17/01/12	TB 11282	TB 11284	27/06/13	TB 11429	TB 11426
06/05/10	TB 11116	TB 11116	30/01/12	TB 11283	TB 11283	21/06/13	TB 11427	TB 11429
27/05/10	TB 11112	TB 11112	01/02/12	TB 11284	TB 11285	01/07/13	TB 11434	TB 11434
13/07/11	TB 11241	TB 11238	24/02/12	TB 11286	TB 11286	01/07/13	TB 11432	TB 11432
11/05/10	TB 11111	TB 11034	17/02/12	TB 11285	TB 11287	23/07/13	TB 11430	TB 11430
17/06/10	TB 11118	TB 11118	29/02/12	TB 11287	TB 11289	31/07/13	TB 11431	TB 11431
09/06/10	TB 11120	TB 11120	22/02/12	TB 11288	TB 11288	19/07/13	TB 11436	TB 11436
16/07/10	TB 11122	TB 11122	23/02/12	TB 11289	TB 11291	12/07/13	TB 11433	TB 11433
06/07/10	TB 11123	TB 11123	24/02/12	TB 11290	TB 11290	01/08/13	TB 11437	TB 11437
21/05/10	TB 11124	TB 11124	21/02/12	TB 11291	TB 11293	15/07/13	TB 11435	TB 11435
12/07/10	TB 11126	TB 11126	04/04/12	TB 11292	TB 11292	19/07/13	TB 11438	TB 11316
28/06/10	TB 11127	TB 11127	05/04/12	TB 11293	TB 11294	13/11/13	TB 11440	TB 11438
18/06/10	TB 11129	TB 11129	20/03/12	TB 11294	TB 11296	06/08/13	TB 11441	TB 11441
22/06/10	TB 11130	TB 11102	09/03/12	TB 11295	TB 11295	02/08/13	TB 11439	TB 11439
24/09/10	TB 11135	TB 11135	30/03/12	TB 11296	TB 11298	05/08/13	TB 11442	TB 11440
25/06/10	TB 11132	TB 11132	29/03/12	TB 11297	TB 11297	09/08/13	TB 11443	TB 11391
26/07/10	TB E11006	TB 11111	16/03/12	TB 11299	TB 11175	27/08/13	TB 11446	TB 11442
23/07/10	TB 11138	TB 11138	29/03/12	TB 11300	TB 11300	19/08/13	TB 11447	TB 11443
14/09/11	TB 11251	TB 11136	18/04/12	TB 11281	TB 11301	04/09/13	TB 11444	TB 11444
15/07/10	TB 11062	TB 11062	12/04/12	TB 11302	TB 11180	03/09/13	TB 11445	TB 11445
23/07/10	TB 11141	TB 11141	26/04/12	TB 11301	TB 11303	25/09/13	TB 11449	TB 11446
23/08/10	TB 11145	TB 11145	20/04/12	TB 11303	TB 11306	13/09/13	TB 11450	TB 11447
27/08/10	TB 11117	TB 11117	24/04/12	TB 11304	TB 11307	29/10/13	TB 11448	TB 11448
13/08/10	TB 11146	TB 11146	27/04/12	TB 11305	TB 11305	26/09/13	TB 11453	TB 11449
13/09/10	TB 11149	TB 11149	25/04/12	TB 11306	TB 11308	02/12/13	TB 11454	TB 11450

FIGURE 1 TO PARAGRAPHS (g), (j)(1), AND (j)(2) OF THIS AD—AFFECTED FLAP SERIAL NUMBERS (S/N)—Continued

Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n	Date of first operation (dd/mm/yy)	LH s/n	RH s/n
27/09/10	TB 11150	TB 11150	26/04/12	TB 11307	TB 11196	25/09/13	TB 11451	TB 11451
14/11/11	TB 11148	TB 11148	14/05/12	TB 11308	TB 11310	25/09/13	TB 11472	TB 11464
17/09/10	TB 11151	TB 11151	10/05/12	TB 11310	TB 11312	27/09/13	TB 11457	TB 11453
28/09/10	TB 11107	TB 11107	11/05/12	TB 11312	TB 11317	28/10/13	TB 11458	TB 11454
27/09/10	TB 11159	TB 11159	09/05/12	TB 11309	TB 11299	22/10/13	TB 11456	TB 11455
25/10/10	TB 11153	TB 11153	25/05/12	TB 11311	TB 11311	11/10/13	TB 11455	TB 11456
29/09/10	TB 11155	TB 11155	29/05/12	TB 11313	TB 11313	25/10/13	TB 11459	TB 11459
08/10/10	TB 11156	TB 11156	31/05/12	TB 11314	TB 11314	20/11/13	TB 11460	TB 11458
13/10/10	TB 11157	TB 11157	28/06/12	TB 11317	TB 11315	17/10/13	TB 11461	TB 11461
15/10/10	TB 11168	TB 11168	15/06/12	TB 11316	TB 11336	21/10/13	TB 11462	TB 11460
13/10/10	TB 11186	TB 11160	15/06/12	TB 11318	TB 11318	23/10/13	TB 11463	TB 11463
22/10/10	TB 11161	TB 11161	31/05/12	TB 11319	TB 11319	05/11/13	TB 11465	TB 11462
22/10/10	TB 11163	TB 11163	08/06/12	TB 11320	TB 11320	04/11/13	TB 11466	TB 11466
25/01/12	TB 11256	TB 11280	22/06/12	TB 11321	TB 11321	13/11/13	TB 11452	TB 11473
22/11/10	TB 11165	TB 11165	19/07/12	TB 11322	TB 11322	04/11/13	TB 11389	TB 11465
10/11/10	TB 11167	TB 11167	29/06/12	TB 11323	TB 11323	22/11/13	TB 11468	TB 11457
02/12/10	TB 1960	TB 1960	11/07/12	TB 11324	TB 11324	27/11/13	TB 11467	TB 11467
15/11/10	TB 11169	TB 11169	26/06/12	TB 11348	TB 11325	11/12/13	TB 11470	TB 11468
30/11/10	TB 11178	TB 11170	09/07/12	TB 11326	TB 11326	18/11/13	TB 11469	TB 11469
10/11/10	TB 11171	TB 11171	03/07/12	TB 11327	TB 11327	02/12/13	TB 11474	TB 11470
30/11/10	TB 11183	TB 11172	12/07/12	TB 11328	TB 11328	02/12/13	TB 11471	TB 11471
26/11/10	TB 11173	TB 11173	16/07/12	TB 11329	TB 11329	30/12/13	TB 11503	TB 11488
14/12/10	TB 11174	TB 11174	24/08/12	TB 11330	TB 11330	16/12/13	TB 11476	TB 11474
15/06/12	TB 11175	TB 11302	13/07/12	TB 11331	TB 11331	16/12/13	TB 11477	TB 11477
19/11/10	TB 11177	TB 11177	23/07/12	TB 11332	TB 11332	06/12/13	TB 11475	TB 11475
23/12/10	TB 11172	TB 11178	29/08/12	TB 11333	TB 11333	03/12/13	TB 11479	TB 11476
11/04/12	TB 11315	TB 11304	10/08/12	TB 11334	TB 11334	09/12/13	TB 11480	TB 11480
16/12/10	TB 11181	TB 11181	23/07/12	TB 11335	TB 11335	09/12/13	TB 11478	TB 11489
15/12/10	TB 11184	TB 11183	30/08/12	TB 11337	TB 11337	09/12/13	TB 11481	TB 11481
15/12/10	TB 11187	TB 11184	30/07/12	TB 11336	TB 11309	17/12/13	TB 11482	TB 11482
14/01/11	TB 11188	TB 11188	31/08/12	TB 11180	TB 11339	09/01/14	TB 11483	TB 11483
25/01/11	TB 11189	TB 11187	18/09/12	TB 11340	TB 11340	21/01/14	TB 11484	TB 11484
21/01/11	TB 11160	TB 11189	30/11/12	TB 11339	TB 11341	27/02/14	TB 11486	TB 11486
12/01/11	TB 11190	TB 11190	12/09/12	TB 11341	TB 11343	27/01/14	TB 11487	TB 11487
25/01/11	TB 11192	TB 11186	15/10/12	TB 11343	TB 11345	17/01/14	TB 11485	TB 11485
07/02/11	TB 11191	TB 11191	17/09/12	TB 11346	TB 11347	31/01/14	TB 11489	TB 11490
07/02/11	TB 11193	TB 11192	28/09/12	TB 11345	TB 11344	14/01/14	TB 11490	TB 11491
18/02/11	TB 11195	TB 11193	09/10/12	TB 11342	TB 11342	29/01/14	TB 11488	TB 11492
24/02/11	TB 11196	TB 11195	24/09/12	TB 11344	TB 11346	30/01/14	TB 11492	TB 11493
25/02/11	TB 11199	TB 11211	15/10/12	TB 11347	TB 9015	24/01/14	TB 11493	TB 11479
25/02/11	TB 11200	TB 11198	21/09/12	TB 11338	TB 11348	27/02/14	TB 11491	TB 11494
21/02/11	TB 11201	TB 11199	19/10/12	TB 11350	TB 11359	16/06/14	TB 11495	TB 11495
14/02/11	TB 11170	TB 11200	17/10/12	TB 11351	TB 11351	14/02/14	TB 11498	TB 11498

(h) Eddy Current Conductivity Measurement

For each affected inboard flap: Within 6 years after the effective date of this AD, or within 12 years after the date of the flap first operation, as specified in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, whichever occurs first, accomplish an eddy current conductivity measurement, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-57-3120, dated September 18, 2015; or Airbus Service Bulletin A340-57-5036, dated September 18, 2015; as applicable.

(i) Replacement

If a part manufactured from nonconforming material is detected during the eddy current inspection required by paragraph (h) of this AD: Within 30 days after doing the eddy current inspection, obtain replacement instructions approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's

EASA Design Organization Approval (DOA); and, within the compliance time specified in those instructions, accomplish the replacement accordingly.

(j) Parts Installation Limitation

As of the effective date of this AD, an inboard flap may be installed on any airplane, provided the part is a serviceable part. A serviceable part is:

(1) A part that is not listed by serial number in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD; or

(2) A part that has a serial number listed in figure 1 to paragraphs (g), (j)(1), and (j)(2) of this AD, and has passed an eddy current conductivity measurement within the compliance time specified in this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-57-3120, dated September 18, 2015; or Airbus Service Bulletin A340-57-5036, dated September 18, 2015; as applicable.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

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

(l) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016-0231, dated November 22, 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-2016-8851.

(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) Airbus Service Bulletin A330-57-3120, dated September 18, 2015.

(ii) Airbus Service Bulletin A340-57-5036, dated September 18, 2015.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

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

Issued in Renton, Washington, on March 10, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-05366 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2016-9385; Directorate Identifier 2016-NM-111-AD; Amendment 39-18844; AD 2017-07-06]

RIN 2120-AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Gulfstream Aerospace Corporation Model G-1159B airplanes. This AD was prompted by a review of airplane maintenance records, which revealed that incorrect rudder assemblies were installed on certain airplanes. This AD requires certain inspections, and replacement or modification of the rudder assembly if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as May 15, 2017.

ADDRESSES: For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402-2206; telephone 800-810-4853; fax 912-965-3520; email pubs@gulfstream.com; Internet http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9385.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>

by searching for and locating Docket No. FAA-2016-9385; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Krista Greer, Aerospace Engineer, Airframe Branch, ACE-117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404-474-5544; fax: 404-474-5606; email: krista.greer@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Gulfstream Aerospace Corporation Model G-1159B airplanes. The NPRM published in the **Federal Register** on November 21, 2016 (81 FR 83180). The NPRM was prompted by a review of airplane maintenance records, which revealed that incorrect rudder assemblies were installed on certain airplanes. The NPRM proposed to require an inspection to determine the part number of the rudder assembly installed, verification that the part number of the rudder assembly matches what is recorded in the airplane maintenance records, an inspection of the rudder hinges if necessary, and replacement or modification of the rudder assembly if necessary. We are issuing this AD to detect and correct the installation of incorrect rudder assemblies, which could result in flutter and subsequent loss of the rudder, and consequent loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received.

Support for the NPRM

An anonymous commenter stated that the NPRM was understandable and that the FAA should retain its governmental authority.

We infer that the commenter supports the intent of the NPRM. We have not made any changes to this final rule regarding this issue.

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 14 CFR Part 51

We reviewed Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016 (for Model G-1159 and Model G-1159B airplanes). The service information describes procedures for inspecting the rudder assembly to determine the part number, verifying that the part number of the rudder assembly matches what is recorded in the airplane maintenance records, inspecting the rudder hinges,

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

Costs of Compliance

We estimate that this AD affects 24 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	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$2,040

We estimate the following costs to do any necessary replacements or modifications that will be required

based on the results of the inspection. We have no way of determining the

number of aircraft that might need these replacements or modifications:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement/modification	3 work-hours × \$85 per hour = \$255	\$51,445	\$51,700

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017-07-06 Gulfstream Aerospace Corporation: Amendment 39-18844; Docket No. FAA-2016-9385; Directorate Identifier 2016-NM-111-AD.

(a) Effective Date

This AD is effective May 15, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Gulfstream Model G-1159B airplanes, certificated in any category.

Note 1 to paragraph (c) of this AD: Model G-1159B airplanes are also referred to by marketing designation GIIIB.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a review of airplane maintenance records, which revealed that incorrect rudder assemblies were installed on certain airplanes. We are issuing this AD to detect and correct the installation of incorrect rudder assemblies, which could result in flutter and subsequent loss of the rudder, and consequent loss of control of the airplane.

(f) Compliance

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

(g) Inspection To Determine Rudder Assembly Part Number (P/N) and Verification of Maintenance Records

Within 12 months after the effective date of this AD, do an inspection to determine the part number of the rudder assembly, in accordance with the Accomplishment Instructions of Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016, except as provided by paragraph (i)(1) of this AD. If the rudder assembly does not have P/N 1159CS20004-3, within 12 months after the effective date of this AD, verify that the rudder assembly part number recorded in the aircraft maintenance records matches the part number of the rudder assembly installed on the airplane and if the rudder assembly part number does not match, correct the aircraft maintenance records accordingly.

(h) Additional Inspection and Corrective Action

If, during the inspection required by paragraph (g) of this AD, a rudder assembly having P/N 1159CS20004-3 is found, before further flight, do a general visual inspection of the middle and upper rudder hinges to determine if a one-piece or two-piece hinge is installed, in accordance with the Accomplishment Instructions of Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016, and do the applicable action specified in paragraph (h)(1) or (h)(2) of this AD, except as required by paragraph (i)(2) of this AD.

(1) For airplanes with a one-piece hinge installed: Do the actions specified in paragraph (h)(1)(i) or (h)(1)(ii) of this AD.

(i) Modify the rudder assembly, in accordance with the Accomplishment Instructions of Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016.

Note 2 to paragraph (h)(1)(i) of this AD: Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016, refers to Gulfstream GII Aircraft Service Change Number 300, Amendment 1, dated May 21, 1984, as an additional source of guidance for accomplishment of the rudder modification.

(ii) Replace the rudder assembly with a rudder assembly that has been modified as specified in Gulfstream GII Aircraft Service Change Number 300. Do the replacement using a method approved in accordance with the procedures specified in paragraph (k)(1) of this AD.

(2) For airplanes with a two-piece hinge installed: Re-identify the rudder assembly as having incorporated the actions in Gulfstream GII Aircraft Service Change Number 300, in accordance with the Accomplishment Instructions of Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016.

(i) Exceptions to Service Bulletin Specifications

(1) Where Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016, specifies to record the rudder part

number and serial number on the service reply card, that action is not required by this AD.

(2) Where Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016, specifies to contact Gulfstream for instructions on modifying the rudder assembly, this AD requires modifying the rudder assembly before further flight using a method approved in accordance with the procedures specified in paragraph (k)(1) of this AD.

(j) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l) of this AD.

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

(3) Except as required by paragraph (i) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(3)(i) and (k)(3)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

For more information about this AD, contact Krista Greer, Aerospace Engineer, Airframe Branch, ACE-117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404-474-5544; fax: 404-474-5606; email: krista.greer@faa.gov.

(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 the AD specifies otherwise.

(i) Gulfstream GII/IIB Customer Bulletin Number 468, dated February 17, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402-2206; telephone 800-810-4853; fax 912-965-3520; email pubs@gulfstream.com; Internet http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

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

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-06704 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 97**

[Docket No. 31127; Amdt. No. 3741]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective April 10, 2017. The compliance date for each SIAP, associated Takeoff Minimums,

and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 10, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find

that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC on March 24, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 27 April 2017

Pell City, AL, St Clair County, RNAV (GPS) RWY 3, Amdt 3

Pell City, AL, St Clair County, RNAV (GPS) RWY 21, Amdt 3

Pell City, AL, St Clair County, Takeoff Minimums and Obstacle DP, Amdt 3

Santa Monica, CA, Santa Monica

Muni, RNAV (GPS) RWY 21, Orig Santa Monica, CA, Santa Monica Muni, RNAV (GPS) Y RWY 3, Orig Santa Monica, CA, Santa Monica Muni, RNAV (GPS) Z RWY 3, Orig Augusta, GA, Augusta Rgnl At Bush Field, RADAR-1, Amdt 8, CANCELED

Cordele, GA, Crisp County-Cordele, RNAV (GPS) RWY 6, Amdt 1

Cordele, GA, Crisp County-Cordele, RNAV (GPS) RWY 10, Amdt 1

Cordele, GA, Crisp County-Cordele, RNAV (GPS) RWY 24, Amdt 1

Cordele, GA, Crisp County-Cordele, RNAV (GPS) RWY 28, Amdt 1

Cordele, GA, Crisp County-Cordele, Takeoff Minimums and Obstacle DP, Amdt 3

Cordele, GA, Crisp County-Cordele, VOR/DME RWY 23, Amdt 11, CANCELED

Brazil, IN, Brazil Clay County, VOR RWY 9, Amdt 7B

Fort Wayne, IN, Fort Wayne Intl, VOR OR TACAN RWY 23, Amdt 14

Indianapolis, IN, Indianapolis Executive, VOR RWY 18, Amdt 1D

Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 4L, Orig

Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 4R, Amdt 2

Bangor, ME, Bangor Intl, ILS OR LOC RWY 33, ILS RWY 33 (SA CAT I), ILS RWY 33 (SA CAT II), Amdt 13

Bangor, ME, Bangor Intl, ILS Y OR LOC Y RWY 15, ILS Y RWY 15 (CAT II), ILS Y RWY 15 (CAT III), Amdt 7

Bangor, ME, Bangor Intl, RADAR-1, Amdt 5

Bangor, ME, Bangor Intl, RNAV (GPS) RWY 15, Amdt 1

Bangor, ME, Bangor Intl, RNAV (GPS) RWY 33, Amdt 1

Mora, MN, Mora Muni, NDB RWY 35, Orig

Jefferson, NC, Ashe County, Takeoff Minimums and Obstacle DP, Amdt 1

Dickinson, ND, Dickinson—Theodore Roosevelt Rgnl, ILS OR LOC RWY 32, Amdt 1B

New York, NY, West 30TH St, Takeoff Minimums and Obstacle DP, Amdt 1

Burns Flat, OK, Clinton-Sherman, RNAV (GPS) RWY 17R, Amdt 1

Burns Flat, OK, Clinton-Sherman, RNAV (GPS) RWY 35L, Amdt 1

Dickson, TN, Dickson Muni, NDB RWY 17, Amdt 3

Dickson, TN, Dickson Muni, VOR/DME RWY 17, Amdt 4F, CANCELED

Nashville, TN, John C Tune, RNAV (GPS) RWY 2, Amdt 2A

Kerrville, TX, Kerrville Muni/Louis Schreiner Field, LOC RWY 30, Amdt 5

Tangier, VA, Tangier Island, RNAV (GPS)-B, Amdt 1

Wenatchee, WA, Pangborn Memorial, VOR-A, Amdt 9A

Wenatchee, WA, Pangborn Memorial, VOR-B, Orig-A

[FR Doc. 2017-06753 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31126; Amdt. No. 3740]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective April 10, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 10, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590-0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedure Standards Branch (AFS-420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on March 10, 2017.

John S. Duncan,
Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
27-Apr-17	AK	Kenai	Kenai Muni	7/9573	2/28/17	RNAV (GPS) RWY 20R, Amdt 3.

[FR Doc. 2017-06752 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31125; Amdt. No. 3739]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff

Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective April 10, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of April 10, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590-0001. 2. The FAA Air Traffic Organization Service Area in which the affected airport is located; 3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or, 4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedure Standards Branch (AFS-420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff

Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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. 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on March 10, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 27 April 2017

Bakersfield, CA, Meadows Field, RNAV (GPS) RWY 12R, Orig
 Bakersfield, CA, Meadows Field, RNAV (GPS) RWY 30L, Orig
 Los Angeles, CA, Los Angeles Intl, RNAV (RNP) Z RWY 24L, Amdt 2
 Ontario, CA, Ontario Intl, RNAV (GPS) Y RWY 26L, Amdt 2
 Ontario, CA, Ontario Intl, RNAV (GPS) Y RWY 26R, Amdt 2
 Alamosa, CO, San Luis Valley Rgnl/Bergman Field, ILS OR LOC RWY 2, Amdt 2
 Alamosa, CO, San Luis Valley Rgnl/Bergman Field, RNAV (GPS) RWY 2, Amdt 1
 Pahokee, FL, Palm Beach Co Glades, RNAV (GPS) RWY 17, Orig-A
 Pahokee, FL, Palm Beach Co Glades, RNAV (GPS) RWY 35, Orig-A
 Pahokee, FL, Palm Beach Co Glades, VOR/DME-A, Orig-A
 Stuart, FL, Witham Field, RNAV (GPS) RWY 12, Amdt 1B
 West Palm Beach, FL, North Palm Beach County General Aviation, ILS OR LOC RWY 8R, Amdt 1B
 West Palm Beach, FL, North Palm Beach County General Aviation, RNAV (GPS) RWY 13, Orig-B
 West Palm Beach, FL, North Palm Beach County General Aviation, VOR RWY 8R, Amdt 1C
 West Palm Beach, FL, Palm Beach County Park, RNAV (GPS)-A, Orig-A
 Dalton, GA, Dalton Muni, ILS OR LOC RWY 14, Amdt 1
 Dalton, GA, Dalton Muni, RNAV (GPS) RWY 14, Amdt 1
 Dalton, GA, Dalton Muni, RNAV (GPS) RWY 32, Amdt 1
 Dalton, GA, Dalton Muni, Takeoff Minimums and Obstacle DP, Amdt 5
 Honolulu, HI, Daniel K. Inouye Intl, Takeoff Minimums and Obstacle DP, Amdt 8A
 Ottumwa, IA, Ottumwa Rgnl, ILS OR LOC RWY 31, Amdt 5E

Cairo, IL, Cairo Rgnl, NDB RWY 14, Amdt 2B
Cairo, IL, Cairo Rgnl, RNAV (GPS) RWY 32, Orig-B
Chicago/Prospect Heights/Wheeling, IL, Chicago Executive, RNAV (GPS) RWY 16, Amdt 1E
Anderson, IN, Anderson Muni-Darlington Field, ILS OR LOC RWY 30, Amdt 2
Anderson, IN, Anderson Muni-Darlington Field, NDB RWY 30, Amdt 7
Indianapolis, IN, Indianapolis Rgnl, RNAV (GPS) RWY 25, Orig-C
Logansport, IN, Logansport/Cass County, VOR-A, Amdt 7A
Marion, IN, Marion Muni, ILS OR LOC RWY 4, Amdt 7D
Peru, IN, Peru Muni, VOR RWY 1, Amdt 8C
Wabash, IN, Wabash Muni, VOR-A, Amdt 11A
Houma, LA, Houma-Terrebonne, ILS OR LOC RWY 18, Amdt 5
New Iberia, LA, Acadiana Rgnl, ILS OR LOC RWY 35, Amdt 1
New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 17, Amdt 1
New Iberia, LA, Acadiana Rgnl, RNAV (GPS) RWY 35, Amdt 1
New Iberia, LA, Acadiana Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
New Iberia, LA, Acadiana Rgnl, VOR OR TACAN RWY 17, Amdt 2
New Iberia, LA, Acadiana Rgnl, VOR RWY 35, Amdt 2
Cape Girardeau, MO, Cape Girardeau Rgnl, LOC/DME BC RWY 28, Amdt 8C
Charleston, MO, Mississippi County, NDB RWY 36, Amdt 4B
Gordon, NE, Gordon Muni, NDB RWY 22, Amdt 4B
Gordon, NE, Gordon Muni, RNAV (GPS) RWY 4, Amdt 1B
Gordon, NE, Gordon Muni, RNAV (GPS) RWY 22, Amdt 1A
Burns Flat, OK, Clinton-Sherman, ILS OR LOC RWY 17R, Amdt 8
Burns Flat, OK, Clinton-Sherman, Takeoff Minimums and Obstacle DP, Orig-A
Burns Flat, OK, Clinton-Sherman, VOR RWY 35L, Amdt 12
Clinton, OK, Clinton Rgnl, RNAV (GPS) RWY 17, Amdt 3
Clinton, OK, Clinton Rgnl, RNAV (GPS) RWY 35, Amdt 4
Clinton, OK, Clinton Rgnl, VOR/DME-A, Orig, CANCELED
Elk City, OK, Elk City Rgnl Business, RNAV (GPS) RWY 17, Amdt 2
Elk City, OK, Elk City Rgnl Business, RNAV (GPS) RWY 35, Amdt 2
Weatherford, OK, Thomas P Stafford, RNAV (GPS) RWY 35, Amdt 3
Latrobe, PA, Arnold Palmer Rgnl, ILS OR LOC RWY 23, Amdt 17
Latrobe, PA, Arnold Palmer Rgnl, RNAV (GPS) RWY 5, Amdt 1
Latrobe, PA, Arnold Palmer Rgnl, RNAV (GPS) RWY 23, Amdt 1
Latrobe, PA, Arnold Palmer Rgnl, Takeoff Minimums and Obstacle DP, Amdt 6
Majuro Atoll, RM, Marshall Islands Intl, NDB RWY 7, Amdt 1A
Majuro Atoll, RM, Marshall Islands Intl, NDB RWY 25, Amdt 1A
Majuro Atoll, RM, Marshall Islands Intl, RNAV (GPS) RWY 7, Orig-D
Majuro Atoll, RM, Marshall Islands Intl, RNAV (GPS) RWY 25, Orig-D

Millington, TN, Millington Rgnl Jetport, Takeoff Minimums and Obstacle DP, Orig-A
Canadian, TX, Hemphill County, RNAV (GPS) RWY 4, Amdt 2
Kerrville, TX, Kerrville Muni/Louis Schreiner Fld, NDB RWY 30, Amdt 4, CANCELED
Terrell, TX, Terrell Muni, NDB RWY 17, Amdt 4
Wheeler, TX, Wheeler Muni, RNAV (GPS) RWY 17, Orig-A, CANCELED
Wheeler, TX, Wheeler Muni, RNAV (GPS) RWY 35, Orig-A, CANCELED
Wheeler, TX, Wheeler Muni, RNAV (GPS)-A, Orig
Wheeler, TX, Wheeler Muni, RNAV (GPS)-B, Orig
Wheeler, TX, Wheeler Muni, VOR/DME-A, Amdt 2, CANCELED

[FR Doc. 2017-06771 Filed 4-7-17; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-446]

Schedules of Controlled Substances: Temporary Placement of Six Synthetic Cannabinoids (5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA) into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary scheduling order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule six synthetic cannabinoids: methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB]; 5F-MDMB-PINACA]; methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide [5F-APINACA, 5F-AKB48]; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide [ADB-FUBINACA]; methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-CHMICA, MMB-CHMINACA] and methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-FUBINACA], and their optical, positional, and geometric isomers, salts, and salts of isomers into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances

Act. This action is based on a finding by the Administrator that the placement of these synthetic cannabinoids into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA.

DATES: This temporary scheduling order is effective on April 10, 2017. This temporary order will expire on April 10, 2019, unless it is extended for an additional year or a permanent scheduling proceeding is completed.

FOR FURTHER INFORMATION CONTACT: Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801-971. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, and are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C.

812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling¹ for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into schedule I of the CSA.² The Acting Administrator transmitted notice of his intent to place 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA into schedule I on a temporary basis to the Assistant Secretary by letter dated April 22, 2016. The Assistant Secretary responded to this notice by letter dated May 2, 2016, and advised that based on a review by the Food and Drug Administration (FDA), there were no investigational new drug applications or approved new

drug applications for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA. The Assistant Secretary also stated that the HHS had no objection to the temporary placement of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA into schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA are not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to temporarily schedule 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA or MDMB-FUBINACA was published in the **Federal Register** on December 21, 2016. 81 FR 93595.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed into schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA, summarized below, indicate that these synthetic cannabinoids (SCs) have a high

potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's three-factor analysis, and the Assistant Secretary's May 2, 2016 letter are available in their entirety under the tab "Supporting Documents" of the public docket of this action at www.regulations.gov under FDMS Docket ID: DEA-2016-0020 (Docket Number DEA-446).

Factor 4. History and Current Pattern of Abuse

Synthetic cannabinoids have been developed over the last 30 years as tools for investigating the endocannabinoid system (*e.g.*, determining CB1 and CB2 receptor activity). The first encounter of SCs within the United States occurred in November 2008 by U.S. Customs and Border Protection. Since then the popularity of SCs and their associated products has increased steadily as evidenced by law enforcement seizures, public health information, and media reports. 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA are SCs that have been recently encountered (see "Supporting and Related Material," factor 5). Multiple overdoses involving emergency medical intervention or deaths have been associated with 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA.

Research and clinical reports have demonstrated that SCs are applied onto plant material so that the material may be smoked as users attempt to obtain a euphoric and/or psychoactive "high," believed to be similar to marijuana. Data gathered from published studies, supplemented by discussions on Internet discussion Web sites, demonstrate that these products are being abused mainly by smoking for their psychoactive properties. The adulterated products are marketed as "legal" alternatives to marijuana. In recent overdoses, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA have been shown to be applied onto plant material, similar to the SCs that have been previously available.

Law enforcement personnel have encountered various application methods, including buckets or cement mixers, in which plant material and one or more SCs (including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMB-CHMICA and/or MDMB-FUBINACA) are mixed together, as well as large areas where the plant material is spread out so that a dissolved SC

¹ Though DEA has used the term "final order" with respect to temporary scheduling orders in the past, this notification adheres to the statutory language of 21 U.S.C. 811(h), which refers to a "temporary scheduling order." No substantive change is intended.

² As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the Department of Health and Human Service (HHS) in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

mixture can be applied directly. Once mixed, the SC plant material is then allowed to dry before manufacturers package the product for distribution, ignoring any control mechanisms to prevent contamination or to ensure a consistent, uniform concentration of the substance in each package. Adverse health consequences may also occur from directly ingesting the substance(s) during the manufacturing process. 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA, similar to other SCs, have been encountered in the form of dried leave or herbal blends.

The designer drug products laced with SCs, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA, are often sold under the guise of "herbal incense" or "potpourri," use various product names, and are routinely labeled "not for human consumption." Additionally, these products are marketed as a "legal high" or "legal alternative to marijuana" and are readily available over the Internet, in head shops, or sold in convenience stores. There is an incorrect assumption that these products are safe, that they are a synthetic form of marijuana, and that labeling these products as "not for human consumption" is a legal defense to criminal prosecution.

A major concern, as reiterated by public health officials and medical professionals, is the targeting and direct marketing of SCs and SC-containing products to adolescents and youth. This is supported by law enforcement encounters and reports from emergency departments; however, all age groups have been reported by media as abusing these substances and related products. Individuals, including minors, are purchasing SCs from Internet Web sites, gas stations, convenience stores, and head shops.

Factor 5. Scope, Duration and Significance of Abuse

SCs, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA, continue to be encountered on the illicit market regardless of scheduling actions that attempt to safeguard the public from the adverse effects and safety issues associated with these substances. Numerous substances are encountered each month, differing only by small modifications intended to avoid prosecution while maintaining the pharmacological effects. Law enforcement and health care professionals continue to report abuse of

these substances and their associated products.

As described by the National Institute on Drug Abuse (NIDA), many substances being encountered in the illicit market, specifically SCs, have been available for years but have reentered the marketplace due to a renewed popularity.

The threat of serious injury to the individual following the ingestion of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA and other SCs persists. Numerous calls have been received by poison centers regarding the abuse of products potentially laced with SCs that have resulted in visits to emergency departments. Law enforcement continues to encounter novel SCs on the illicit market, including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA (see factor 5 in "Supporting and Related Material").

The following information details information obtained through NFLIS³ (queried on November 7, 2016), including dates of first encounter, exhibits/reports, and locations.

5F-ADB: NFLIS-2,311 reports, first encountered in September 2014, locations include: Arizona, Arkansas, California, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin.

5F-AMB: NFLIS-3,349 reports, first encountered in January 2014, locations include: Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming.

5F-APINACA: NFLIS-1,936 reports, first encountered in August 2012, locations include: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma,

Pennsylvania, Puerto Rico, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

ADB-FUBINACA: NFLIS-942 reports, first encountered in March 2014, locations include: Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Texas, Utah, Virginia, and Wyoming.

MDMA-CHMICA: NFLIS-227 reports, first encountered in March 2015, locations include: Arkansas, Georgia, Indiana, Kentucky, Louisiana, Nevada, Ohio, Oklahoma, South Carolina, and Texas.

MDMA-FUBINACA: NFLIS-507 reports, first encountered in July 2015, locations include: Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Missouri, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, Wisconsin, and West Virginia.

Factor 6. What, if Any, Risk There Is to the Public Health

5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA have all been identified in overdose and/or cases involving death attributed to their abuse. Adverse health effects reported from these incidents involving 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA have included: Nausea, persistent vomiting, agitation, altered mental status, seizures, convulsions, loss of consciousness and/or cardio toxicity. Large clusters of overdoses requiring medical care have been reported involving 5F-AMB, MDMA-FUBINACA, MDMA-CHMICA and 5F-ADB. Reported deaths involving these SCs have included 5F-ADB (8); 5F-AMB (6); 5F-APINACA (1); ADB-FUBINACA (2); and MDMA-CHMICA (4). The European Monitoring Centre for Drugs and Drug Addiction has reported an additional 12 deaths involving MDMA-CHMICA; and MDMA-FUBINACA (1) (see factor 6 in "Supporting and Related Material").

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the continued uncontrolled manufacture, distribution, importation, exportation, conduct of research and chemical

³ The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories in the United States.

analysis, possession, and abuse of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for these substances in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed into schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA indicate that these SCs have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated April 22, 2016, notified the Assistant Secretary of the DEA's intention to temporarily place these six substances into schedule I. A notice of intent was subsequently published in the **Federal Register** on December 21, 2016.⁴ 81 FR 93595.

Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, and herein set forth the grounds for his determination that it is necessary to temporarily schedule methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB; 5F-MDMA-PINACA]; methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide [5F-APINACA, 5F-AKB48]; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide [ADB-FUBINACA]; methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMA-CHMICA, MDMA-CHMINACA] and methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-

dimethylbutanoate [MDMA-CHMICA-FUBINACA] into schedule I of the CSA to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds it necessary to temporarily place these SCs into schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling these substances will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h) (1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done "on the record after opportunity for a hearing" conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this temporary order, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and MDMA-FUBINACA will become subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312, as of April 10, 2017. Any person who currently handles 5F-ADB, 5F-AMB, 5F-APINACA, ADB-

FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA and is not registered with the DEA, must submit an application for registration and may not continue to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA as of April 10, 2017, unless the DEA has approved that application for registration. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after April 10, 2017 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA, must surrender all quantities of currently held 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA.

3. *Security.* 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71-1301.93, as of April 10, 2017.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from April 10, 2017, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA on the effective date of this order, must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA) on hand on a biennial basis, pursuant to 21 U.S.C. 827

⁴ A publication error occurred with the December 21, 2016 notification (81 FR 93595), which resulted in 21 CFR 1308.11 being amended. As a result, a correction was issued by the **Federal Register** on January 9, 2017 (82 FR 2218), and the amended text was removed. The original notice of intent was republished on January 9, 2017 (82 FR 2280), with the corrected non-amendatory language.

and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, and 1317 and § 1307.11. Current DEA registrants authorized to handle 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of April 10, 2017.

8. *Order Forms.* All DEA registrants who distribute 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of April 10, 2017.

9. *Importation and Exportation.* All importation and exportation of 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of April 10, 2017.

10. *Quota.* Only DEA registered manufacturers may manufacture 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of April 10, 2017.

11. *Liability.* Any activity involving 5F-ADB, 5F-AMB, 5F-APINACA, ADB-FUBINACA, MDMA-CHMICA and/or MDMA-FUBINACA not authorized by, or in violation of the CSA, occurring as of April 10, 2017, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the

expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the Congressional Review Act, “any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall

take effect at such time as the federal agency promulgating the rule determines. 5 U.S.C. 808(2). It is in the public interest to schedule these substances immediately because they pose a public health risk. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to move quickly to place these substances into schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this temporary order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808, because, as noted above, this action is an order, not a rule.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

- 1. The authority citation for part 1308 continues to read as follow:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

- 2. Section 1308.11 is amended by adding paragraphs (h)(10) through (15) to read as follows:

§ 1308.11 Schedule I.

* * * * *
(h) * * *

(10) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-ADB; 5F-MDMB-PINACA) (7034)

(11) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-AMB) (7033)

- (12) *N*-(adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-APINACA, 5F-AKB48) (7049)
- (13) *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: ADB-FUBINACA) (7010)
- (14) methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMB-CHMICA, MMB-CHMINACA) (7042)
- (15) methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MDMB-FUBINACA) (7020)

Dated: April 4, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017-07118 Filed 4-7-17; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket Number USCG-2017-0173]

Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to allow the Quad City Marathon to cross the bridge. This deviation allows the bridge to be maintained in the closed-to-navigation position for ninety minutes.

DATES: This deviation is effective from 9 a.m. to 10:30 a.m. on April 8, 2017.

ADDRESSES: The docket for this deviation, [USCG-2017-0173] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH."

Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION: The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois to remain in the closed-to-navigation position for a one and ½ hour period from 9:00 a.m. to 10:30 a.m., April 8, 2017, while the River Bandits 5K is held between the cities of Davenport, IA and Rock Island, IL.

The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: March 31, 2017.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2017-07115 Filed 4-7-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0118]

RIN 1625-AA00

Safety Zone; Columbia River, Sand Island, WA

Correction

In rule document 2017-04196, appearing on pages 12416 through 12418, in the issue of Friday, March 3, 2017, make the following correction:

On page 12417, in the first column, on the fourteenth line from the bottom of the page, "46°5'5" N." should read, "46°15'45" N."

[FR Doc. C1-2017-04196 Filed 4-7-17; 8:45 am]

BILLING CODE 1301-00-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2016-0552; A-1-FRL-9960-86-Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Maine, New Hampshire, Rhode Island and Vermont; Interstate Transport of Fine Particle and Ozone Air Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) submissions from the Maine Department of Environmental Protection (ME DEP), the New Hampshire Department of Environmental Services (NH DES), the Rhode Island Department of Environmental Management (RI DEM) and the Vermont Department of Environmental Conservation (VT DEC). These SIP submissions address provisions of the Clean Air Act that require each state to submit a SIP to address emissions that may adversely affect another state's air quality through interstate transport. The EPA is finding that all four States have adequate provisions to prohibit in-state emissions activities from significantly contributing to nonattainment, or interfering with the maintenance, of the 1997 ozone National Ambient Air Quality Standards (NAAQS) in other states, and that Rhode Island and Vermont have adequate provisions to prohibit in-state emissions

activities from significantly contributing to nonattainment, or interfering with maintenance, of the 1997 fine particulate matter (PM_{2.5}) and 2006 PM_{2.5} NAAQS in other states. The intended effect of this action is to approve the SIP revisions submitted by Maine, New Hampshire, Rhode Island, and Vermont. This action is being taken under the Clean Air Act.

DATES: This rule is effective on May 10, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2016-0552. All documents in the docket are listed on the <http://www.regulations.gov> Web site, although some information, such as confidential business information or other information whose disclosure is restricted by statute is not publically available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhardt, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1664; burkhardt.richard@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background.
- II. Public Comments.
- III. Final Action.
- IV. Statutory and Executive Order Reviews.

I. Background

This rulemaking approves SIP submissions from the ME DEP, the NH DES, the RI DEM, and the VT DEC. The SIPs were submitted on the following dates: April 24, 2008 (ME); March 11, 2008 (NH); April 30, 2008 and

November 6, 2009 (RI); and April 15, 2009 and May 21, 2010 (VT). These SIP submissions address the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) for the 1997 ozone and 1997 PM_{2.5} and 2006 PM_{2.5} NAAQS.¹

On December 15, 2016 (81 FR 90758), EPA published a notice of proposed rulemaking (NPR) proposing approval of these SIP submissions. The specific details of each state's SIP submission and the rationale for EPA's approval of each SIP submission are discussed in the NPR and will not be restated here.

II. Public Comments

EPA did not receive any comments in response to the NPR.

III. Final Action

EPA is approving the SIP revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 ozone NAAQS: April 24, 2008 (Maine); March 11, 2008 (New Hampshire); April 30, 2008 (Rhode Island); and April 15, 2009 (Vermont). In addition, EPA is approving the SIP revisions submitted by the states on the following dates as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 PM_{2.5} NAAQS: April 30, 2008 (Rhode Island); and April 15, 2009 (Vermont). Also, EPA is approving the SIP revisions submitted by Rhode Island on November 6, 2009 and Vermont on May 21, 2010 as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 PM_{2.5} NAAQS.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of

Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

¹ To the extent that these SIP submittals address other infrastructure elements, such as CAA section 110(a)(2)(D)(i)(II), those requirements are not being addressed in today's action. In today's rulemaking, EPA is taking action only with respect to CAA section 110(a)(2)(D)(i)(I).

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may

not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 16, 2017.
Deborah A. Szaro,
Acting Regional Administrator, EPA New England.

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

PART 52—[AMENDED]

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

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

Subpart U—Maine

- 2. In § 52.1020, the table in paragraph (e) is amended by adding a new row to the end of the table to read as follows:

§ 52.1020 Identification of plan.

* * * * *
 (e) *Nonregulatory.*

MAINE NON REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
* Transport SIP for the 1997 Ozone Standard.	* Statewide	* Submitted 04/24/2008	* 4/10/2017, [Insert Federal Register citation].	* State submitted a transport SIP for the 1997 ozone standards which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

³In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

Subpart EE—New Hampshire

- 3. In § 52.1520, the table in paragraph (e) is amended by adding a new row to the end of the table to read as follows:

§ 52.1520 Identification of plan.

* * * * *
 (e) *Nonregulatory.*

NEW HAMPSHIRE NONREGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
* Transport SIP for the 1997 Ozone Standard.	* Statewide	* Submitted 03/11/2008	* 4/10/2017, [Insert Federal Register citation].	* State submitted a transport SIP for the 1997 ozone standards which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

³In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

Subpart OO—Rhode Island

- 4. In § 52.2070, the table in paragraph (e) is amended by adding three new

rows to the end of the table to read as follows:

§ 52.2070 Identification of plan.

* * * * *
 (e) *Nonregulatory.*

RHODE ISLAND NON REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Explanations
* Transport SIP for the 1997 Ozone Standard.	* Statewide	* Submitted 04/30/2008	* 4/10/2017, [Insert Federal Register citation].	* State submitted a transport SIP for the 1997 ozone standards which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 1997 Particulate Matter Standard.	Statewide	Submitted 04/30/2008	4/10/2017, [Insert Federal Register citation].	State submitted a transport SIP for the 1997 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 2006 Particulate Matter Standard.	Statewide	Submitted 11/06/2009	4/10/2017, [Insert Federal Register citation].	State submitted a transport SIP for the 2006 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

Subpart UU—Vermont

■ 5. In § 52.2370, the table in paragraph (e) is amended by adding three new

rows to the end of the table to read as follows:

§ 52.2370 Identification of plan.

* * * * *
(e) *Nonregulatory.*

VERMONT NON-REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Explanations
* Transport SIP for the 1997 Ozone Standard.	* Statewide	* Submitted 04/15/2009	* 4/10/2017, [Insert Federal Register citation].	* State submitted a transport SIP for the 1997 ozone standards which shows it does not significantly contribute to ozone nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 1997 Particulate Matter Standards.	Statewide	Submitted 04/15/2009	4/10/2017, [Insert Federal Register citation].	State submitted a transport SIP for the 1997 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).
Transport SIP for the 2006 particulate matter Standards.	Statewide	Submitted 05/21/2010	4/10/2017, [Insert Federal Register citation].	State submitted a transport SIP for the 2006 particulate matter standards which shows it does not significantly contribute to particulate matter nonattainment or maintenance in any other state. EPA approved this submittal as meeting the requirements of Clean Air Act Section 110(a)(2)(D)(i)(I).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0292; FRL–9960–59–Region 4]

Air Plan Approval; Georgia; Inspection and Maintenance Program Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve the State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) on August 6, 2014, pertaining to rule changes for the Georgia Inspection and Maintenance (I/M) program. EPA is approving this SIP revision as modified by GA EPD through a December 1, 2016, partial withdrawal letter. EPA is taking this action because the State has demonstrated that the SIP revision is consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective on *June 9, 2017* without further notice, unless EPA receives relevant adverse comment by May 10, 2017. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0292 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Wong can be reached via phone at (404) 562–8726 or electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA requires certain areas that are designated as moderate, serious, severe, or extreme ozone nonattainment areas to establish a motor vehicle I/M program to ensure regular monitoring of gasoline fueled motor vehicle emissions by requiring that vehicles undergo periodic emissions testing. See CAA sections 182(b)(4), (c)(3). This emissions testing ensures that vehicles are well maintained and operating as designed and do not exceed established vehicle pollutant limits. A basic I/M program is required for certain moderate areas and an enhanced I/M program is required for certain serious, severe, or extreme ozone nonattainment areas.

In 1991, EPA classified a 13-county area in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1990 1-hour ozone National Ambient Air Quality Standards (NAAQS), triggering the requirement for the State to establish an enhanced I/M program for this area.¹ In 1996, Georgia submitted its enhanced I/M program to EPA for incorporation into the SIP. EPA granted interim approval of the State's program in August 1997. See 62 FR 42916 (August 11, 1997). Full approval was granted in the direct final rule published in January 2000. See 65 FR 4133 (January 26, 2000). Since that time, EPA has approved several SIP revisions regarding the State's I/M program.

In 1997, EPA established an 8-hour ozone NAAQS and subsequently designated areas according to their attainment status. On April 30, 2004, EPA designated a 20-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 1997 8-hour ozone NAAQS.² See 69

¹ On November 6, 1991, EPA designated and classified the following counties in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1-hour ozone NAAQS: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. See 56 FR 56694.

² The nonattainment area for the 1997 8-hour ozone standard consisted of the following counties: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton,

FR 23858. EPA reclassified these counties as a moderate ozone nonattainment area on March 6, 2008, because the area failed to attain the 1997 8-hour ozone NAAQS by the required attainment date of June 15, 2007. See 73 FR 12013. Subsequently, the area attained the 1997 8-hour ozone standard, and on December 2, 2013, EPA redesignated the counties to attainment for the 1997 8-hour ozone NAAQS. See 78 FR 72040.

On March 12, 2008, EPA revised the 8-hour ozone NAAQS. See 73 FR 16436 (March 27, 2008). EPA designated a 15-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012).³ See 77 FR 30088 (May 21, 2012). EPA reclassified these counties as a moderate ozone nonattainment area on April 11, 2016, because the area failed to attain the 2008 8-hour ozone NAAQS by the required attainment date of July 20, 2015. See 81 FR 26697 (May 4, 2016).⁴

II. EPA's Analysis of Georgia's SIP Revision

In the August 6, 2014, SIP revision, GA EPD requested that EPA take action to update the SIP to include changes to the Georgia I/M program. The submittal revises several rules within Georgia Rule Chapter 391–3–20, *Enhanced Inspection and Maintenance*, for the purpose of providing: Clarification, consistency with federal rules, consistency with the Georgia Motor Vehicle Inspection and Maintenance Act, and improved enforceability. On December 1, 2016, GA EPD submitted a partial withdrawal letter withdrawing the proposed revision to Georgia Rule 391–3–20–.06, “On Road Testing”, from the SIP revision.

Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton.

³ The nonattainment area for the 2008 8-hour ozone standard consists of the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.

⁴ Subsequent to the reclassification of the Atlanta Area, EPA determined that the Area has attained the 2008 8-hour ozone NAAQS based on 2013–2015 monitoring data. See 81 FR 45419 (July 14, 2016). However, an attainment determination is not equivalent to a redesignation under CAA section 107(d)(3). The Area will remain nonattainment for the 2008 8-hour ozone NAAQS and subject to the NNSR requirements for that NAAQS until such time as EPA determines that the Area meets the requirements for redesignation to attainment. EPA proposed to redesignate the Area in a notice of proposed rulemaking published on December 23, 2016 (81 FR 94283).

The remaining changes in Georgia's August 6, 2014, SIP revision after the withdrawal letter pertain to Georgia Rules 391-3-20-.01; 391-3-20-.03 through 391-3-20-.05; 391-3-20-.07 through 391-3-20-.13; and 391-3-20-.15 through 391-3-20-.22. Further explanation of these changes is provided below and in the SIP revision:

- Rule 391-3-20-.01, "Definitions," is being amended to be consistent with revisions to the Inspection and Maintenance Test Manual, to remove obsolete language, to include new definitions consistent with changes to other Inspection and Maintenance rules, to make definitions consistent with EPA definitions, to reference a new Test Manual and a new Procedures Manual, and to remove redundant language that is currently in the Georgia Motor Vehicle Emissions Inspection and Maintenance Act.

- Rule 391-3-20-.03, "Covered Vehicles; Exemptions," is being amended to clarify certain provisions, to update terminology to be consistent with current emission inspection technology, and to update a reference to another State agency.

- Rule 391-3-20-.04, "Emission Inspection Procedures," is being amended to provide clarification regarding inspections required by the Inspection and Maintenance Act and to update it to current terminology.

- Rule 391-3-20-.05, "Emission Standards," is being amended to use standard terminology, to remove obsolete language, and to add new terminology due to advances in the emission testing industry.

- Rule 391-3-20-.07, "Inspection Equipment System Specifications," is being amended to update terminology to be consistent, use generic terminology, and to clarify the meaning of the rule.

- Rule 391-3-20-.08, "Quality Control and Equipment Calibration Procedures," is being amended to allow for better enforcement of the rules, to update standard terminology, and to remove a duplicate section.

- Rule 391-3-20-.09, "Inspection Station Requirements," is being amended to provide clarification by using standard terms, to add clarifying language, and to remove unnecessary and obsolete language. The amendments also change the time frame from five days to three days for notifying the management contractor when an inspector leaves employment of an inspection station. The clarifications will enhance the State's compliance and enforcement capabilities with regard to liability insurance.

- Rule 391-3-20-.10, "Certificates of Authorization," is being amended to

clarify the requirements in this rule, make them consistent with current practice, and improve GA EPD's ability to properly enforce the inspection and maintenance rules. Among other things, the amendments: (1) Add a requirement that renewal certificates be submitted at least 30 days prior to expiration to allow sufficient time for processing; (2) remove the 10-day time limit for maintaining dedicated data transmission lines at a sold station and require data lines to be maintained until the close-out audit is complete; and (3) clarify that new inspection station owners must obtain a Certificate of Authorization prior to operating the station. Subparagraph (7) is being removed to improve the State's ability to deny a renewal when there is sufficient cause.

- Rule 391-3-20-.11, "Inspector Qualifications and Certification," is being amended to clarify the requirements of this section by removing obsolete terms, updating language, and adding necessary requirements.

- Rule 391-3-20-.12, "Schedules for Emission Inspections," is being amended to clarify and update the requirements.

- Rule 391-3-20-.13, "Certificate of Emission Inspection," is being amended to update this section and add clarification.

- Rule 391-3-20-.15, "Repairs and Reinspections," is being amended to clarify terminology and use standardized terms.

- Rule 391-3-20-.16, "Extensions and Reciprocal Inspections," is being amended to make the rule consistent with the Inspection and Maintenance Act.

- Rule 391-3-20-.17, "Waivers," is being amended to use standardized terminology, eliminate obsolete provisions, and to specify the requirements for obtaining waivers consistent with current procedures.

- Rule 391-3-20-.18, "Sale of Vehicles," is being amended to specify that GA EPD has the option to collect a civil penalty of up to \$5,000 per day for any violation of any requirement of the Georgia Motor Vehicle Emissions Inspection and Maintenance Act and Rules, including the car sales provisions, as an alternative to criminal penalties.

- Rule 391-3-20-.19, "Management Contractor," is being amended to reflect a reorganization of state agencies by changing "Georgia Department of Motor Vehicle Safety" to "Georgia Department of Revenue, Motor Vehicle Division" and adding language for future name changes.

- Rule 391-3-20-.20, "Referee Program," is being amended to make it consistent with the Inspection and Maintenance Act and to update terminology.

- Rule 391-3-20-.21, "Inspection Fees," is being amended to remove obsolete provisions.

- Rule 391-3-20-.22, "Enforcement," is being amended to remove obsolete wording.

Section 110(l) of the CAA prevents EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA has preliminarily determined that these changes will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA, and therefore satisfy section 110(l), because they are either administrative or remove requirements that do not have an air quality impact such that removal will interfere with attainment or maintenance of the NAAQS in any area in Georgia.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rules 391-3-20-.01, 391-3-20-.03 through 391-3-20-.05, Georgia Rules, 391-3-20-.07 through 391-3-20-.13, and 391-3-20-.15 through 391-3-20-.22 (state effective date of June 19, 2014). Therefore, these rules (state effective date of June 19, 2014) have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.⁵ EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

IV. Final Action

EPA is taking direct final action to revise the Georgia SIP to include the changes to Georgia Rules 391-3-20-.01; 391-3-20-.03 through 391-3-20-.05;

⁵ 62 FR 27968 (May 22, 1997).

391–3–20–07 through 391–3–20–13; and 391–3–20–15 through 391–3–20–22 related to the State’s I/M program. EPA has concluded that the State’s submission meets the requirements of section 110 of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 9, 2017 without further notice unless the Agency receives adverse comments by May 10, 2017.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 9, 2017 and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the Agency may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

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

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

■ 2. In § 52.570, the table in paragraph (c) is amended by revising the entry “391–3–20” to read as follows:

§ 52.570 Identification of plan.

* * * * *
(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Emission Standards				
*	*	*	*	*
391-3-20	Enhanced Inspection and Maintenance	6/19/2014	4/10/2017 [Insert Federal Register citation].	
*	*	*	*	*

* * * * *
 [FR Doc. 2017-07032 Filed 4-7-17; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0048; FRL-9960-54-Region 4]

Air Plan Approval; Kentucky; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portion of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet's Division of Air Quality on August 26, 2016, regarding the nonattainment new source review (NNSR) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS) for the Kentucky portion of the Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area (hereinafter referred to as the "Cincinnati-Hamilton, OH-KY-IN Area" or "Area"). The Area consists of Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; portions of Boone, Campbell, Kenton Counties in Kentucky; and a portion of Dearborn County in Indiana. This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This direct final rule is effective June 9, 2017 without further notice, unless EPA receives adverse comment by May 10, 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-R04-OAR-2017-0048 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Febres can be reached via telephone at (404) 562-8966 or via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR 50.15, the 2008 8-

hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. As part of the designations process for the 2008 8-hour ozone NAAQS, the Cincinnati-Hamilton, OH-KY-IN Area was designated as a marginal ozone nonattainment area, effective July 20, 2012. See 77 FR 30088 (May 21, 2012). On March 6, 2015, EPA issued a final rule entitled, "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule), which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS.¹ See 80 FR 12264. Areas

¹ The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The Rule also revokes the 1997 8-hour ozone NAAQS and establishes anti-backsliding requirements.

that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015 (3 years after the effective date of designation).² See 40 CFR 51.1103.

Based on the nonattainment designation for the 2008 8-hour ozone standard, Kentucky was required to develop a SIP revision addressing certain CAA requirements for the Kentucky portion of the Area. On August 26, 2016, the Commonwealth of Kentucky submitted a SIP revision addressing, among other things, NNSR requirements for the 2008 8-hour ozone NAAQS for the Kentucky Area. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS is provided below.

II. Analysis of Kentucky's Nonattainment New Source Review Requirements

The minimum SIP requirements for NNSR permitting programs for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.165. See 40 CFR 51.1114. These NNSR program requirements include those promulgated in the "Phase 2 Rule" implementing the 1997 8-hour ozone NAAQS (70 FR 71612) and the SIP Requirements Rule for implementing the 2008 8-hour ozone NAAQS (80 FR 12264). Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain nonattainment NSR provisions that: Set major source thresholds for nitrogen oxides (NO_x) and volatile organic compounds (VOC) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(i)-(iv) and (a)(1)(iv)(A)(2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of NO_x as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NO_x as ozone precursors pursuant to 40

CFR 51.165(a)(1)(x)(A)-(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1) and (2); provide that the requirements applicable to VOC also apply to NO_x pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_x pursuant to 40 CFR 51.165(a)(9)(i)-(iii) (renumbered as (a)(9)(ii)-(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS). Under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 8-hour ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. See 40 CFR 51.165(a)(12).

Kentucky has a longstanding and fully implemented NNSR program (found at 401 Kentucky Administrative Regulation (KAR) 51:052) that establishes air quality permitting requirements for the construction or modification of major stationary sources located within, or impacting, areas designated as nonattainment. EPA last approved revisions to the SIP-approved version of Kentucky's NNSR rule on September 15, 2010. Those revisions, submitted to EPA in a February 5, 2010 SIP revision, addressed the NNSR requirements in the Phase 2 Rule for the 1997 8-hour ozone NAAQS. In approving the revisions to Kentucky's NNSR rule, EPA found the revisions to be in accordance with the changes in the federal NSR program for the 1997 8-hour ozone NAAQS.³ See 75 FR 55988. In Kentucky's August 26, 2016 SIP revision, the Commonwealth states that its NNSR program is applicable to the 2008 8-hour ozone NAAQS and cites to the program as containing acceptable provisions to provide for new source review in the Kentucky portion of the Area.

The version of 401 KAR 52:052 that is contained in the current SIP has not changed since the 2010 rulemaking. This version of the rule covers the Kentucky portion of the Area and is adequate to meet all applicable NNSR requirements for the 2008 8-hour ozone NAAQS. The Phase 2 requirements for 8-hour ozone nonattainment areas classified as serious or above remain inapplicable because the Area is

classified as a marginal nonattainment area for the 2008 8-hour NAAQS, and the anti-backsliding requirements added in the SIP Requirements Rule for implementing the 2008 8-hour ozone NAAQS are inapplicable because the Kentucky portion of the Area was redesignated to attainment for the 1997 8-hour ozone NAAQS in 2010.⁴ As stated above, the anti-backsliding requirements for NNSR in the SIP Requirements Rule only apply to areas designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 8-hour ozone NAAQS on April 6, 2015.

III. Final Action

EPA is approving the portion of Kentucky's August 26, 2016, SIP revision addressing the NNSR requirements for the 2008 8-hour ozone NAAQS for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area. EPA has concluded that the Commonwealth's submission fulfills the 40 CFR 51.1114 revision requirement and meets the requirements of CAA section 110 and the minimum SIP requirements of 40 CFR 51.165.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 9, 2017 without further notice unless the Agency receives adverse comments by May 10, 2017.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 9, 2017 and no further action will be taken on the proposed rule.

⁴ See 75 FR 47218 (August 5, 2010). The 1997 8-hour ozone NAAQS was revoked with the 2008 8-hour ozone NAAQS SIP Requirements Rule, and as discussed above, the anti-backsliding requirements for the 1997 8-hour ozone NAAQS only apply for areas that were nonattainment for the 1997 standard on the effective date of the revocation (April 6, 2015). See 80 FR 12264 (March 6, 2015).

² On May 4, 2016 (81 FR 26697), EPA published its determination that the Area had attained the 2008 8-hour ozone NAAQS by the attainment deadline. However, an attainment determination is not equivalent to a redesignation under CAA section 107(d)(3). The Area will remain nonattainment for the 2008 8-hour ozone NAAQS and subject to the NNSR requirements for that NAAQS until such time as EPA determines that the Area meets the requirements for redesignation to attainment.

³ In that action, EPA determined that the SIP revision was consistent with changes to federal NSR requirements (40 CFR 51.165 and 51.166 and the Phase II Rule) relating to the incorporation of nitrogen oxides as an ozone precursor. See 75 FR 55988 (September 15, 2010).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of 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. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

- 2. Section 52.920(e) is amended by adding an entry for "2008 8-hour ozone NAAQS Nonattainment New Source Review Requirements for the Kentucky Portion of the Cincinnati-Hamilton OH-KY-IN Area" at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Explanations
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2008 8-hour ozone NAAQS Nonattainment New Source Review Requirements for the Kentucky Portion of the Cincinnati-Hamilton OH-KY-IN Area.	Boone, Campbell and Kenton Counties (part) (Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area).	8/26/2016	4/10/2017, [Insert Federal Register citation].	

[FR Doc. 2017-07028 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0705; FRL-9960-81-Region 5]

Air Plan Approval; Michigan; Transportation Conformity Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision for carbon monoxide (CO) and particulate matter (PM_{2.5}), submitted by the State of Michigan on October 3, 2016. The purpose of this revision is to establish transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

DATES: This direct final rule is effective June 9, 2017, unless EPA receives adverse comments by May 10, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0705 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR 18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, leslie.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What is EPA’s analysis of Michigan’s SIP revision?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

I. What is the background for this action?

Transportation conformity is required under section 176(c) of the Clean Air Act (Act) to ensure that transportation planning activities are consistent with (“conform to”) air quality planning goals in nonattainment/maintenance areas. The transportation conformity regulation is found in 40 CFR part 93 and provisions related to transportation conformity SIPs are found in 40 CFR 51.390. Transportation conformity applies to areas that are designated nonattainment or maintenance for the transportation related criteria pollutants listed in 40 CFR 93.102(b)(1). Michigan currently has maintenance areas for CO and PM_{2.5}.

EPA originally promulgated the Federal transportation conformity criteria and procedures (“Transportation Conformity Rule”) on November 24, 1993 (58 FR 62188). On August 10, 2005, the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA-LU) was signed into law. SAFETEA-LU revised section 176(c) of the Act transportation conformity provisions. SAFETEA-LU streamlined the requirements for conformity SIPs. Under SAFETEA-LU, States are required to address and tailor only three sections of the rules in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and 40 CFR 93.125(c). 40 CFR 93.105 addresses consultation procedures for conformity. 40 CFR 93.122(a)(4)(ii) and 40 CFR 93.125(c), addresses written commitments from project implementers of transportation control measures. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule.

II. What is EPA’s analysis of Michigan’s SIP revision?

A conformity SIP can be adopted as a state rule, as a memorandum of understanding, or a memorandum of agreement (MOA). The appropriate form of the state conformity procedures depends upon the requirements of local or State law, as long as the selected form complies with all requirements used by the Act for adoption, submission to EPA, and implementation of SIPs. EPA will accept state conformity SIPs in any form provided the state can demonstrate to EPA’s satisfaction that, as a matter of state law, the state has adequate authority to compel compliance with the requirements of the conformity SIP.

Michigan concluded that this SIP revision in the form of a MOA will be enforceable through a number of Michigan statutes. These statutes authorize state agencies to enter into legally binding cooperative contracts for the receipt or furnishing of services. In this case, these services relate to the transportation/air quality planning process in Michigan. Michigan collaborated with the Michigan Department of Transportation (MDOT), the EPA, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Southeast Michigan Council of Governments, to develop the Transportation Conformity MOA. This MOA was agreed upon and signed by all of the above consultation parties.

EPA has evaluated this SIP submission and finds that the state has addressed the requirements of the Federal transportation conformity rule as described in 40 CFR 51.390 and 40 CFR part 93, subpart A. The transportation conformity rule requires the states to develop their own processes and procedures for interagency consultation and resolution of conflicts meeting the criteria in 40 CFR 93.105. The SIP revision includes processes and procedures to be followed by the Metropolitan Planning Organization (MPO), MDOT, the FHWA and the FTA, in consultation with the state and local air quality agencies and EPA before making transportation conformity determinations. Michigan’s transportation conformity SIP also included processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with the MPOs, the state Department of Transportation (DOT), and the U.S. DOT, and requires written commitments to control measures and mitigation measures (40 CFR 93.122(a)(4)(ii) and 93.125(c)).

EPA's review of the Michigan SIP revision indicates that it is consistent with the Act as amended by SAFETEA-LU and EPA regulations (40 CFR part 93, subpart A, and 40 CFR 51.390) governing state procedures for transportation conformity and interagency consultation and therefore EPA has concluded that the submittal is approvable.

III. What action is EPA taking?

EPA is approving a SIP revision submitted by the State of Michigan, for the purpose of establishing transportation conformity criteria and procedures related to interagency consultation, and enforceable commitments to implement transportation related control and mitigation measures.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective June 9, 2017 without further notice unless we receive relevant adverse written comments by May 10, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective June 9, 2017.

IV. Statutory and Executive Order Reviews

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose

additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Particulate matter, Intergovernmental relations.

Dated: March 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

- 2. Section 52.1173 is amended by adding paragraph (l) to read as follows:

§ 52.1173 Control strategy: Particulates.

* * * * *

(l) Approval—On October 3, 2016, the State of Michigan submitted a revision to their Particulate Matter State Implementation Plan. The submittal established transportation conformity "Conformity" criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

■ 3. Section 52.1179 is amended by adding paragraph (c) to read as follows:

§ 52.1179 Control strategy: Carbon monoxide.

* * * * *

(c) Approval—On October 3, 2016, the State of Michigan submitted a revision to their Carbon Monoxide State Implementation Plan. The submittal established transportation conformity “Conformity” criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

[FR Doc. 2017-07029 Filed 4-7-17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2016-0784; FRL-9960-83-Region 10]

Air Plan Approval; Washington: General Regulations for Air Pollution Sources, Southwest Clean Air Agency Jurisdiction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Washington Department of Ecology (Ecology) in coordination with Southwest Clean Air Agency (SWCAA) on December 20, 2016. In the fall of 2014 and spring of 2015, the EPA approved numerous revisions to Ecology’s general air quality regulations. However, our approval of the updated Ecology regulations applied only to geographic areas where Ecology, and not a local air agency, had jurisdiction, and statewide, to source categories over which Ecology had sole jurisdiction. Under the Washington Clean Air Act, local clean air agencies may adopt equally stringent or more stringent requirements in lieu of Ecology’s general air quality regulations, if they so choose. Therefore, the EPA stated that we would evaluate the general air quality regulations as they applied to local jurisdictions in separate, future actions. This final action approves the submitted SWCAA general air quality regulations to replace or supplement the corresponding Ecology regulations for sources in SWCAA’s jurisdiction, including implementation of the minor new source review and nonattainment new source review permitting programs.

This action also approves a limited subset of Ecology regulations, for which there are no corresponding SWCAA corollaries, to apply in SWCAA’s jurisdiction.

DATES: This final rule is effective May 10, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2016-0784. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at EPA Region 10, Office of Air and Waste, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency, Region 10, 1200 Sixth Ave, Suite 900, Seattle, WA 98101; telephone number: (206) 553-0256; email address: hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background Information
- II. Response to Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Orders Review

I. Background Information

On January 19, 2017, the EPA proposed to approve revisions to SWCAA’s general air quality regulations and a limited subset of Ecology regulations to apply in SWCAA’s jurisdiction (82 FR 6413). An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and the EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on February 21, 2017. The EPA received two, separate anonymous comments on the proposal.

II. Response to Comments

Comment #1: The commenter asserted that the EPA’s proposed action is an example of federal overreach on state and local jurisdictions. The commenter also stated that the EPA’s review and proposed approval of the SWCAA regulations violates the Tenth Amendment to the United States Constitution.

Response: Under the CAA, as established and amended by Congress, state and local authorities take the lead in developing State Implementation Plans (SIP) that implement, maintain, and enforce the national ambient air quality standards (NAAQS), which are standards designed to protect public health and welfare from air pollution. In reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 42 U.S.C. 7410(k); 40 CFR 52.02(a). In this case, EPA has done just that—Washington elected to submit the SWCAA and Ecology SIP revision to the EPA, and the EPA has proposed to approve the submission based on our determination that it meets the requirements of the CAA. We are now finalizing our determination.

With respect to the claim that the EPA’s action in approving this SIP submittal violates the Tenth Amendment, the Supreme Court has repeatedly affirmed the constitutionality of federal statutes, such as Section 110 of the CAA, that allow States to administer federal programs but provide for direct federal administration if a State chooses not to administer it. See *Texas v. EPA*, 726 F.3d 180, 196–7 (D.C. Cir. 2013) (citing *New York v. United States*, 505 U.S. 144, 167–8, 173–4 (1992); *Hodel v. Va. Surface Mining & Reclamation Ass’n, Inc.*, 452 U.S. 264m 288 (1981)).

Comment #2: A second commenter wrote in support of the EPA’s proposed approval of the SWCAA and Ecology SIP revision.

Response: We are now finalizing our proposed determination that the SWCAA and Ecology SIP revision meets the requirements of the CAA.

III. Final Action

A. Regulations Approved and Incorporated by Reference Into the SIP

The EPA is approving, and incorporating by reference, into the Washington SIP at 40 CFR 52.2470(c)—*Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SWCAA) Jurisdiction*, the SWCAA and Ecology regulations listed in Tables 1 and 2 below for sources within SWCAA’s jurisdiction.

TABLE 1—SOUTHWEST CLEAN AIR AGENCY (SWCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanations
SWCAA 400—General Regulations for Air Pollution Sources			
400–010	Policy and Purpose	03/18/01	
400–020	Applicability	10/09/16	
400–030	Definitions	10/09/16	Except: 400–030(21) and (129).
400–036	Portable Sources from Other Washington Jurisdictions.	10/09/16	
400–040	General Standards for Maximum Emissions	10/09/16	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050	Emission Standards for Combustion and Incineration Units.	10/09/16	Except: 400–050(3); 400–050(5); and 400–050(6).
400–060	Emission Standards for General Process Units	10/09/16	
400–070	General Requirements for Certain Source Categories.	10/09/16	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6); 400–070(7); 400–070(8)(c); 400–070(9); 400–070(10); 400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072	Small Unit Notification for Selected Source Categories.	10/09/16	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); and all reporting requirements related to toxic air pollutants.
400–074	Gasoline Transport Tanker Registration	11/15/09	Except: 400–074(2).
400–081	Startup and Shutdown	10/09/16	
400–091	Voluntary Limits on Emissions	10/09/16	
400–105	Records, Monitoring and Reporting	10/09/16	Except: reporting requirements related to toxic air pollutants.
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	10/09/16	Except: 400–106(1)(d) through (g); and 400–106(2).
400–109	Air Discharge Permit Applications	10/09/16	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	10/09/16	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	10/09/16	Except: 400–111(7).
400–112	Requirements for New Sources in Nonattainment Areas.	10/09/16	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	10/09/16	Except: 400–113(5).
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	11/09/03	
400–116	Maintenance of Equipment	11/09/03	
400–130	Use of Emission Reduction Credits	10/09/16	
400–131	Deposit of Emission Reduction Credits Into Bank	10/09/16	
400–136	Maintenance of Emission Reduction Credits in Bank.	10/09/16	
400–151	Retrofit Requirements for Visibility Protection	11/09/03	
400–161	Compliance Schedules	03/18/01	
400–171	Public Involvement	10/09/16	Except: 400–171(2)(a)(xii).
400–190	Requirements for Nonattainment Areas	10/09/16	
400–200	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/09/16	Except: 400–200(1).
400–205	Adjustment for Atmospheric Conditions	03/18/01	
400–210	Emission Requirements of Prior Jurisdictions	03/18/01	
400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	10/09/16	
400–810	Major Stationary Source and Major Modification Definitions.	10/09/16	
400–820	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/09/16	
400–830	Permitting Requirements	10/09/16	
400–840	Emission Offset Requirements	10/09/16	
400–850	Actual Emissions—Plantwide Applicability Limitation (PAL).	10/09/16	
400–860	Public Involvement Procedures	10/09/16	
Appendix A	SWCAA Method 9 Visual Opacity Determination Method.	10/09/16	

TABLE 1—SOUTHWEST CLEAN AIR AGENCY (SWCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE—Continued

State/local citation	Title/subject	State/local effective date	Explanations
Appendix B	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/09/16	

TABLE 2—WASHINGTON STATE DEPARTMENT OF ECOLOGY REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/local citation	Title/subject	State/local effective date	Explanations
Chapter 173–400 WAC, General Regulations for Air Pollution Sources			
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	For permits issued under the applicability provisions of WAC 173–400–800.
173–400–118	Designation of Class I, II, and III Areas	12/29/12	Except:—The part of 173–400–560(1)(f) that says, “173–460 WAC”.
173–400–560	General Order of Approval	12/29/12	

B. Approved but Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference stated previously, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA’s independent authorities. The EPA has reviewed and is approving SWCAA 400–220 *Requirements for Board Members*, SWCAA 400–230 *Regulatory Actions and Civil Penalties*, SWCAA 400–240 *Criminal Penalties*, SWCAA 400–250 *Appeals*, SWCAA 400–260 *Conflict of Interest*, SWCAA 400–270 *Confidentiality of Records and Information*, and SWCAA 400–280 *Powers of Agency* as providing SWCAA adequate enforcement and other general authorities for purposes of implementing and enforcing its SIP. However, the EPA is not incorporating these sections by reference into the SIP codified in 40 CFR 52.2470(c). Instead, the EPA is including these sections in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures*, as approved but not incorporated by reference regulatory provisions.

C. Regulations To Remove From the SIP

The Ecology regulations contained in Washington’s SIP at 40 CFR 52.2470(c)—*Table 8—Additional Regulations Approved for the Southwest Clean Air Agency (SWCAA) Jurisdiction*

were last approved by the EPA on June 2, 1995 (60 FR 28726). As discussed in the proposal for this action, under the Washington Clean Air Act, local air agencies have the option of adopting and implementing equally stringent or more stringent corresponding provisions to apply in lieu of Chapter 173–400 WAC, or parts of Chapter 173–400 WAC. With the exception of updated versions of WAC 173–400–117, 173–400–118, and 173–400–560, SWCAA requested that the submitted SWCAA regulations replace the existing WAC provisions currently in the SIP for its jurisdiction. Also as discussed in the proposal, we are removing from the SIP SWCAA 400–050(3) [formerly 400–050(2)], 400–052, 400–070(6), 400–070(8)(c) [formerly 400–070(7)(c) and (d)], 400–074(2), 400–100, 400–101, and 400–109(4), because removal of these provisions would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We also note that the SIP includes a reference to SWCAA 400–090 which was renumbered to SWCAA 400–091 on September 21, 1995. We are removing the reference to SWCAA 400–090 in the SIP which was inadvertently not addressed as part of our February 26, 1997 approval of SWCAA 400–091 (62 FR 8624).

D. Scope of Proposed Action

This revision to the Washington SIP applies specifically to the SWCAA jurisdiction incorporated at 40 CFR 52.2470(c)—*Table 8*. As discussed in our October 3, 2014 approval of revisions to the WAC, local air agency jurisdiction in Washington is generally

defined on a geographic basis; however, there are exceptions (79 FR 59653, at page 59654). By statute, SWCAA does not have authority for sources under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC). See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173–405–012, 173–410–012, and 173–415–012, SWCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology also retains statewide, direct jurisdiction for the prevention of significant deterioration (PSD) permitting program. Therefore, the EPA is not approving into 40 CFR 52.2470(c)—*Table 8* the provisions of Chapter 173–400 WAC related to the PSD program. Specifically, the provisions are WAC 173–400–116 and WAC 173–400–700 through 750, already approved by the EPA as applying statewide.

Jurisdiction to implement the visibility permitting program contained in WAC 173–400–117 varies depending on the situation (see 80 FR 23721, April 29, 2015, at page 80 FR 23726). Ecology retains authority to implement WAC 173–400–117 as it relates to PSD permits. However, for facilities subject to major nonattainment new source review (NSR) under the applicability provisions of SWCAA 400–800, we are approving SWCAA to implementing those parts of WAC 173–400–117 as they relate to major nonattainment NSR permits. We are also modifying the visibility protection Federal Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173–400–117 as it applies to

implementation of the major nonattainment NSR program in SWCAA's jurisdiction.

Lastly, this SIP revision is not approved to apply on any Indian reservation land in the State, or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference as described in the amendments to 40 CFR part 52 set forth below. These materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ The EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This SIP revision is not approved to apply on any Indian reservation land in Washington or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the

U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 20, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Amend § 52.2470 by revising Table 8 of paragraph (c) and Table 1 of paragraph (e), to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

¹ 62 FR 27968 (May 22, 1997).

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION
 [Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Southwest Clean Air Agency Regulations				
SWCAA 400—General Regulations for Air Pollution Sources				
400–010	Policy and Purpose	03/18/01	04/10/17, [Insert Federal Register citation].	
400–020	Applicability	10/09/16	04/10/17, [Insert Federal Register citation].	
400–030	Definitions	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–030(21) and (129).
400–036	Portable Sources from Other Washington Jurisdictions.	10/09/16	04/10/17, [Insert Federal Register citation].	
400–040(1)(a)	General Standards for Maximum Emissions.	9/21/95	2/26/97, 62 FR 8624.	
400–040	General Standards for Maximum Emissions.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–040(1)(a), (c) and (d); 400–040(2); and 400–040(4).
400–050	Emission Standards for Combustion and Incineration Units.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–050(3); 400–050(5); and 400–050(6).
400–060	Emission Standards for General Process Units.	10/09/16	04/10/17, [Insert Federal Register citation].	
400–070(2)(a)	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624.	
400–070	General Requirements for Certain Source Categories.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–070(2)(a); 400–070(3)(b); 400–070(5); 400–070(6); 400–070(7); 400–070(8)(c); 400–070(9); 400–070(10); 400–070(11); 400–070(12); 400–070(14); and 400–070(15)(c).
400–072	Small Unit Notification for Selected Source Categories.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); and all reporting requirements related to toxic air pollutants.
400–074	Gasoline Transport Tanker Registration.	11/15/09	04/10/17, [Insert Federal Register citation].	Except: 400–074(2).
400–081	Startup and Shutdown	10/09/16	04/10/17, [Insert Federal Register citation].	
400–091	Voluntary Limits on Emissions	10/09/16	04/10/17, [Insert Federal Register citation].	
400–105	Records, Monitoring and Reporting	10/09/16	04/10/17, [Insert Federal Register citation].	Except: Reporting requirements related to toxic air pollutants.
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–106(1)(d) through (g); and 400–106(2).
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624.	
400–109	Air Discharge Permit Applications	10/09/16	04/10/17, [Insert Federal Register citation].	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–111(7).
400–112	Requirements for New Sources in Nonattainment Areas.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	10/09/16	04/10/17, [Insert Federal Register citation].	
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	11/09/03	04/10/17, [Insert Federal Register citation].	
400–116	Maintenance of Equipment	11/09/03	04/10/17, [Insert Federal Register citation].	
400–130	Use of Emission Reduction Credits	10/09/16	04/10/17, [Insert Federal Register citation].	
400–131	Deposit of Emission Reduction Credits Into Bank.	10/09/16	04/10/17, [Insert Federal Register citation].	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—
Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173-405-012, 173-410-012, and 173-415-012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400-136	Maintenance of Emission Reduction Credits in Bank.	10/09/16	04/10/17, [Insert Federal Register citation].	Except: 400-171(2)(a)(xii).
400-151	Retrofit Requirements for Visibility Protection.	11/09/03	04/10/17, [Insert Federal Register citation].	
400-161	Compliance Schedules	03/18/01	04/10/17, [Insert Federal Register citation].	
400-171	Public Involvement	10/09/16	04/10/17, [Insert Federal Register citation].	
400-190	Requirements for Nonattainment Areas.	10/09/16	04/10/17, [Insert Federal Register citation].	
400-200	Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques.	10/09/16	04/10/17, [Insert Federal Register citation].	
400-205	Adjustment for Atmospheric Conditions.	03/18/01	04/10/17, [Insert Federal Register citation].	
400-210	Emission Requirements of Prior Jurisdictions.	03/18/01	04/10/17, [Insert Federal Register citation].	
400-800	Major Stationary Source and Major Modification in a Nonattainment Area.	10/09/16	04/10/17, [Insert Federal Register citation].	
400-810	Major Stationary Source and Major Modification Definitions.	10/09/16	04/10/17, [Insert Federal Register citation].	
400-820	Determining If a New Stationary Source or Modification to a Stationary Source is Subject to These Requirements.	10/09/16	04/10/17, [Insert Federal Register citation].	
400-830	Permitting Requirements	10/09/16	04/10/17, [Insert Federal Register citation].	
400-840	Emission Offset Requirements	10/09/16	04/10/17, [Insert Federal Register citation].	
400-850	Actual Emissions—Plantwide Applicability Limitation (PAL).	10/09/16	04/10/17, [Insert Federal Register citation].	
400-860	Public Involvement Procedures	10/09/16	04/10/17, [Insert Federal Register citation].	
Appendix A	SWCAA Method 9 Visual Opacity Determination Method.	10/09/16	04/10/17, [Insert Federal Register citation].	
Appendix B	Description of Vancouver Ozone and Carbon Monoxide Maintenance Area Boundary.	10/09/16	04/10/17, [Insert Federal Register citation].	

Emission Standards and Controls for Sources Emitting Volatile Organic Compounds

490-010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204.	
490-020	Definitions	11/21/96	5/19/97, 62 FR 27204.	
490-025	General Applicability	11/21/96	5/19/97, 62 FR 27204.	
490-030	Registration and Reporting	11/21/96	5/19/97, 62 FR 27204.	
490-040	Requirements	11/21/96	5/19/97, 62 FR 27204.	
490-080	Exceptions & Alternative Methods ...	11/21/96	5/19/97, 62 FR 27204.	
490-090	New Source Review	11/21/96	5/19/97, 62 FR 27204.	
490-200	Petroleum Refinery Equipment Leaks	11/21/96	5/19/97, 62 FR 27204.	
490-201	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204.	
490-202	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204.	
490-203	Perchloroethylene Dry Cleaning Systems.	11/21/96	5/19/97, 62 FR 27204.	
490-204	Graphic Arts Systems	11/21/96	5/19/97, 62 FR 27204.	
490-205	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204.	
490-207	Surface Coating of Flatwood Paneling.	11/21/96	5/19/97, 62 FR 27204.	
490-208	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204.	

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Emissions Standards and Controls for Sources Emitting Gasoline Vapors				
491–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204.	
491–015	Applicability	11/21/96	5/19/97, 62 FR 27204.	
491–020	Definitions	11/21/96	5/19/97, 62 FR 27204.	
491–030	Registration	11/21/96	5/19/97, 62 FR 27204.	
491–040	Gasoline Vapor Control Requirements.	11/21/96	5/19/97, 62 FR 27204.	
491–050	Failures, Certification, Testing & Recordkeeping.	11/21/96	5/19/97, 62 FR 27204.	
491–060	Severability	11/21/96	5/19/97, 62 FR 27204.	
Oxygenated Fuels				
492–010	Policy and Purpose	11/21/96	4/30/97, 62 FR 23363.	
492–020	Applicability	11/21/96	4/30/97, 62 FR 23363.	
492–030	Definitions	11/21/96	4/30/97, 62 FR 23363.	
492–040	Compliance Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–050	Registration Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–060	Labeling Requirements	11/21/96	4/30/97, 62 FR 23363.	
492–070	Control Area and Control Period	11/21/96	4/30/97, 62 FR 23363.	
492–080	Enforcement and Compliance	11/21/96	4/30/97, 62 FR 23363.	
492–090	Unplanned Conditions	11/21/96	4/30/97, 62 FR 23363.	
492–100	Severability	11/21/96	4/30/97, 62 FR 23363.	
VOC Area Source Rules				
493–100	Consumer Products (Reserved)	05/26/96	5/19/97, 62 FR 27204.	
493–200–010	Applicability	05/26/96	5/19/97, 62 FR 27204.	
493–200–020	Definitions	05/26/96	5/19/97, 62 FR 27204.	
493–200–030	Spray Paint Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204.	
493–200–040	Requirements for Manufacture, Sale and Use of Spray Paint.	05/26/96	5/19/97, 62 FR 27204.	
493–200–050	Recordkeeping & Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204.	
493–200–060	Inspection and Testing Requirements	05/26/96	5/19/97, 62 FR 27204.	
493–300–010	Applicability	5/26/96	5/19/97, 62 FR 27204.	
493–300–020	Definitions	5/26/96	5/19/97, 62 FR 27204.	
493–300–030	Standards	5/26/96	5/19/97, 62 FR 27204.	
493–300–040	Requirements for Manufacture, Sale and Use of Architectural Coatings.	5/26/96	5/19/97, 62 FR 27204.	
493–300–050	Recordkeeping & Reporting Requirements.	5/26/96	5/19/97, 62 FR 27204.	
493–300–060	Inspection and Testing Requirements	5/26/96	5/19/97, 62 FR 27204.	
493–400–010	Applicability	05/26/96	5/19/97, 62 FR 27204.	
493–400–020	Definitions	05/26/96	5/19/97, 62 FR 27204.	
493–400–030	Coating Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204.	
493–400–040	Requirements for Manufacture & Sale of Coating.	05/26/96	5/19/97, 62 FR 27204.	
493–400–050	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	05/26/96	5/19/97, 62 FR 27204.	
493–400–060	Recordkeeping and Reporting Requirements.	05/26/96	5/19/97, 62 FR 27204.	
493–400–070	Inspection & Testing Requirements ..	05/26/96	5/19/97, 62 FR 27204.	
493–500–010	Applicability	05/26/96	05/19/97, 62 FR 27204.	
493–500–020	Compliance Extensions	05/26/96	05/19/97, 62 FR 27204.	
493–500–030	Exemption from Disclosure to the Public.	05/26/96	05/19/97, 62 FR 27204.	
493–500–040	Future Review	05/26/96	05/19/97, 62 FR 27204.	
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	04/10/17, [Insert Federal Register citation].	For permits issued under the applicability provisions of WAC 173–400–800.

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173-405-012, 173-410-012, and 173-415-012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173-400-118	Designation of Class I, II, and III Areas.	12/29/12	04/10/17, [Insert Federal Register citation].	
173-400-560	General Order of Approval	12/29/12	04/10/17, [Insert Federal Register citation].	Except:—The part of 173-400-560(1)(f) that says, “173-460 WAC”.

* * * * * (e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Washington Department of Ecology Regulations				
173-400-220	Requirements for Board Members	3/22/91	6/2/95, 60 FR 28726.	
173-400-230	Regulatory Actions	3/20/93	6/2/95, 60 FR 28726.	
173-400-240	Criminal Penalties	3/22/91	6/2/95, 60 FR 28726.	
173-400-250	Appeals	9/20/93	6/2/95, 60 FR 28726.	
173-400-260	Conflict of Interest	07/01/16	10/6/16, 81 FR 69385.	
173-433-200	Regulatory Actions and Penalties	10/18/90	1/15/93, 58 FR 4578.	
Benton Clean Air Agency Regulations				
2.01	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695.	
2.02	Requirements for Board of Directors Members.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173-400-220.
2.03	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695.	
2.04	Powers and Duties of the Control Officer.	12/11/14	11/17/15, 80 FR 71695.	
2.05	Severability	12/11/14	11/17/15, 80 FR 71695.	
2.06	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695.	
Olympic Region Clean Air Agency Regulations				
8.1.6	Penalties	5/22/10	10/3/13, 78 FR 61188.	
Southwest Clean Air Agency Regulations				
400-220	Requirements for Board Members	3/18/01	04/10/17, [Insert Federal Register citation].	
400-230	Regulatory Actions and Civil Penalties.	10/9/16	04/10/17, [Insert Federal Register citation].	
400-240	Criminal Penalties	3/18/01	04/10/17, [Insert Federal Register citation].	
400-250	Appeals	11/9/03	04/10/17, [Insert Federal Register citation].	
400-260	Conflict of Interest	3/18/01	04/10/17, [Insert Federal Register citation].	
400-270	Confidentiality of Records and Information.	11/9/03	04/10/17, [Insert Federal Register citation].	
400-280	Powers of Agency	3/18/01	04/10/17, [Insert Federal Register citation].	
Spokane Regional Clean Air Agency Regulations				
8.11	Regulatory Actions and Penalties	09/02/14	09/28/15, 80 FR 58216.	

* * * * *

■ 3. Amend § 52.2498 by revising paragraph (a)(2) to read as follows:

§ 52.2498 Visibility protection.

(a) * * *

(2) Sources subject to the jurisdiction of local air authorities (except Benton Clean Air Agency and Southwest Clean Air Agency);

* * * * *

[FR Doc. 2017-07022 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2013-0772; FRL-9960-94-Region 4]

Air Plan Approval; North Carolina; Motor Vehicle Emissions Control Program; Correcting Amendment

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: This direct final action, taken under the authority of the Clean Air Act (CAA or Act), corrects an error in previously promulgated rules approving certain elements of the North Carolina state implementation plan (SIP). The error relates to the North Carolina SIP's Motor Vehicle Emissions Control Standard rules and the correction removes a provision of the State's otherwise federally-enforceable regulations that could result in infringement upon the sovereign immunity of Federal facilities. The intended effect is to ensure that the North Carolina SIP is correctly identified in the applicable part of the Code of Federal Regulations and to eliminate the possibility of such infringement.

DATES: This direct final rule is effective June 9, 2017 without further notice, unless EPA receives adverse comment by May 10, 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-R04-OAR-2013-0772 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via phone at (404) 562-9992 or electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(4) of the CAA requires areas that are designated as moderate, serious, or severe ozone nonattainment to establish a motor vehicle inspection and maintenance (I/M) program to ensure that specified gasoline-fueled motor vehicles do not exceed prescribed emissions thresholds by requiring that vehicles undergo periodic emissions testing, including mandatory repairs for vehicles found to exceed these thresholds. This emissions testing ensures that vehicles are well maintained and operating as designed.

The North Carolina I/M program began in 1982 in Mecklenburg County utilizing a "tail-pipe" emissions test. From 1986 through 1991 the program expanded to include eight additional counties (Wake, Forsyth, Guilford, Durham, Gaston, Cabarrus, Orange and Union County). In 1999, the North Carolina General Assembly passed legislation to expand the coverage area for the I/M program in order to gain additional emission reductions to achieve the 1997 8-hour ozone national ambient air quality standards in the State. This legislation expanded the I/M program from nine counties to 48 counties by adding several counties approximately every six months from July 1, 2003, to July 1, 2006. The I/M program in the expanded coverage area used on-board diagnostic (OBD) rather than tail-pipe testing. On August 7, 2002, North Carolina submitted a SIP revision to amend the I/M regulations included in the SIP at that time to, among other things, expand the counties

subject to the I/M program as discussed above, require OBD in the subject counties for all model year (MY) 1996 and newer light duty gasoline vehicles, and terminate the tail-pipe testing program on January 1, 2006, for the nine counties subject to continued tail-pipe testing of MY 1995 and older vehicles.

EPA approved these changes to North Carolina's I/M program into the SIP on October 30, 2002. *See* 67 FR 66056. North Carolina submitted additional SIP revisions related to the State's I/M program on January 31, 2008, May 24, 2010, October 11, 2013, and February 11, 2014. EPA approved North Carolina's January 31, 2008, May 24, 2010, October 11, 2013, and February 11, 2014, SIP revisions pertaining to state rule changes to the State's I/M program on February 5, 2015. *See* 80 FR 6455.

II. Error Correction

The CAA sets forth requirements for Federal facilities which are located in I/M program areas. These requirements in section 118(c) and (d) apply to both Federal fleet and Federal employee vehicles. Congress intended in that section that Federal facilities located in I/M program areas demonstrate compliance with certain local and State I/M requirements. When EPA published the I/M rule in 1992, *see* 57 FR 52950, the Agency interpreted CAA section 118(c) and (d) as a partial waiver of the Federal government's sovereign immunity, thereby allowing States to regulate Federal facilities in their I/M programs.¹ Accordingly, EPA established certain SIP requirements for Federal facilities in the I/M rule. Since that time, the Department of Justice (DOJ) has found that sections 118(c) and (d) do not waive sovereign immunity for the Federal government and thus states are without authority to enforce the section 118(c) and (d) requirements for Federal facilities.² Further, DOJ found that the express waiver of sovereign immunity in section 118(a) extends only to nondiscriminatory requirements (*i.e.*, each agency and employee of the Federal government "shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same

¹ *See* letter from Gay MacGregor, Director, Regional and State Programs Division, EPA Office of Air and Radiation, to Mary Jo Leugers, Virginia Office of the Attorney General (August 28, 1998) (MacGregor Letter).

² *See* letter from Lois J. Schiffer, Assistant Attorney General, Department of Justice Environment and Natural Resources Division, to Scott Fulton, Acting General Counsel, EPA (July 29, 1998) (Schiffer Letter).

manner, and to the same extent as any nongovernmental entity.”). As explained below, section 118(a)’s immunity waiver does not extend to State I/M requirements that, like the North Carolina provision at issue here, are imposed upon Federal entities in a different manner or to a different extent than nongovernmental entities.

North Carolina’s regulation 15A NCAC 02D.1002(a)(3) identifies vehicles that are operated on a Federal installation and that meet the requirements of 40 CFR 51.356(a)(4) as subject to the State motor vehicle emission standard. This North Carolina regulation thus subjects certain vehicles operated on Federal installations to State I/M requirements that do not apply in the same manner and to the same extent to nongovernmental entities, and it is inconsistent with the waiver of immunity in section 118(a). As noted in the MacGregor Letter addressing the issue, removing Federal facility I/M requirements from SIPs will in no way impact the emissions reductions credits the States earn for their I/M programs; pursuant to section 118(a), Federal agencies are required to comply with air pollution control programs to the same extent as nongovernmental entities and thus will continue to be subject to programs of general applicability. EPA is therefore removing from the federally-approved North Carolina SIP regulation 15A NCAC 02D.1002(a)(3) because that regulation does not apply to vehicles operated on Federal installations in the same manner and to the same extent as vehicles owned or operated by nongovernmental entities.

III. Final Action

Pursuant to CAA section 110(k)(6), EPA rescinds its previous approval of NCAC 02D.1002(a)(3), a provision that sets forth additional requirements under the vehicle I/M program for motor vehicles operated on Federal installations that do not apply to nongovernmental entities and thus is inconsistent with CAA section 118(a). This action will not result in increases in emissions that would interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not

subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely corrects North Carolina’s EPA-approved SIP by removing the State’s regulation 15A NCAC 02D.1002 (a)(3), which listed Federal facilities as applicable to the state motor vehicle emission standard and 40 CFR 51.356(a)(4), by removing it from the federally-approved portion of the North Carolina SIP to be consistent with CAA 118. It 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.*). Furthermore, this action 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 tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely removes North Carolina regulation 15A NCAC 02D.1002 (a)(3) from the federally approved portion of the North Carolina SIP to be consistent with CAA 118; it also does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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 *June 9, 2017*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by Reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

- 2. Section 52.1770(c) is amended by revising the entry for “Sect .1002” to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
Section .1000 Motor Vehicle Emissions Control Standards				
Sect .1002	Applicability	1/1/2014	4/10/2017 [Insert Federal Register citation].	Paragraph (a)(3) of Section .1002 is hereby rescinded as this paragraph is inconsistent with the limits on the waiver of sovereign immunity established in section 118(a) of the CAA.

* * * * *

[FR Doc. 2017-07035 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2017-0005; FRL-9959-90]

Acetamidrid; Pesticide Tolerances for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of acetamidrid in or on sugarcane, cane and sugarcane, molasses. This action is associated with the issuance of a crisis exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sugarcane. This regulation establishes maximum permissible levels for residues of acetamidrid in or on sugarcane, cane and sugarcane, molasses. The time-limited tolerances expire on December 31, 2019.

DATES: This regulation is effective April 10, 2017. Objections and requests for hearings must be received on or before June 9, 2017, 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-2017-0005, 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 L. 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: RDfRNNotices@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. How can I file an objection or hearing request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 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-2017-0005 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 June 9, 2017. 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-

2017-0005, 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/where-send-comments-epa-dockets>.

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

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(l)(6), is establishing time-limited tolerances for residues of acetamiprid, (1*E*)-*N*-[(6-chloro-3-pyridinyl)methyl]-*N'*-cyano-*N*-methylethananimidamide, in or on sugarcane, cane at 45 parts per million (ppm) and sugarcane, molasses at 600 ppm. These time-limited tolerances expire on December 31, 2019.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption issued under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.*, without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including

all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that “emergency conditions exist which require such exemption.” EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Acetamiprid on Sugarcane and FFDCA Tolerances

With EPA’s concurrence, the Louisiana Department of Agriculture and Forestry (LDAF) declared a crisis on June 17, 2016 necessitating the use of acetamiprid to control the West Indian canefly on sugarcane. At that time, LDAF stated that substantial yield losses had likely already occurred in sugarcane, and the West Indian canefly populations were moving into other crops nearby, posing significant risk to these crops as well.

The state agency asserted that an emergency condition exists in accordance with the criteria for approval of an emergency exemption, and issued a crisis exemption under FIFRA section 18 to allow the use of acetamiprid on sugarcane for control of West Indian canefly in Louisiana. After having reviewed the submission, EPA concurred that an emergency condition exists.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of acetamiprid in or on sugarcane cane and sugarcane molasses. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in FFDCA section 408(l)(6).

Although these time-limited tolerances expire on December 31, 2019, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sugarcane cane and sugarcane molasses after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether acetamiprid meets FIFRA’s registration requirements for use on sugarcane, or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of acetamiprid by a State for special local needs under FIFRA section 24(c). Nor do these tolerances by themselves serve as the authority for persons in any State other than Louisiana to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for acetamiprid, contact the Agency’s Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for residues of acetamiprid on sugarcane, cane at 45 ppm and sugarcane, molasses at 600 ppm. EPA’s assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Points of Departure/Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in

evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks>.

The complete human health risk assessment for this action may be found at <http://www.regulations.gov> in the document “Acetamiprid. Aggregate Human Health Risk Assessment for the Proposed FIFRA Section 18 Specific Exemption Use of the Insecticide on Sugarcane in Louisiana” in the docket for ID number EPA-HQ-OPP-2017-0005. Additionally, a summary of the toxicological endpoints for acetamiprid used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of November 6, 2015 (80 FR 68772) (FRL-9936-12).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to acetamiprid, EPA considered exposure under the time-limited tolerances established by this action as well as all existing acetamiprid tolerances in 40 CFR 180.578. EPA assessed dietary exposures from acetamiprid in food as follows:

i. *Acute exposure.* Acute effects were identified for acetamiprid. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey; What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed one hundred percent crop treated (PCT), and established and proposed tolerance

level residues except as follows for sugarcane molasses. No residue data were available for sugarcane molasses, and residue data from sweet corn stover were used as a surrogate. The Agency determined it appropriate to translate corn stover data to sugarcane, and the use patterns and maximum application rates for sweet corn and sugarcane are similar. The residue level of 240 ppm acetamiprid in sugarcane molasses and sugarcane molasses baby food was used for dietary risk assessment, which is less than the recommended tolerance of 600 parts per million (ppm). The 240 ppm level is based on the highest average field trial acetamiprid residue level of 20 ppm in sweet corn stover, multiplied by the average molasses processing factor of 12X. The average processing factor was derived from molasses processing data for 9 other pesticides, and results in a residue estimate that is more representative of potential levels which could occur in these commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA again used the food consumption data from the USDA’s 2003–2008 NHANES/WWEIA. Residue levels in food were included as explained in Unit IV.B.1.i. of this document at tolerance-level residues for established and proposed tolerances and 240 ppm for sugarcane molasses and sugarcane molasses baby food. Additionally, 100 PCT was assumed.

iii. *Cancer.* Based on the data referenced in Unit IV.A., EPA has concluded that acetamiprid does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for acetamiprid. As detailed in the previous section, residues were estimated for sugarcane molasses and sugarcane molasses baby food based upon data for sweet corn and incorporating an appropriate processing factor derived from processing data for 9 other pesticides in sugarcane. Tolerance level residues were used for the remainder of the commodities and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for acetamiprid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of acetamiprid.

Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide>.

EPA used the Food Quality Protection Act Index Reservoir Screening Tool and the Provisional Cranberry Model to generate to generate surface water Estimated Drinking Water Concentrations (EDWCs) for use in the human health dietary risk assessment, while the Pesticide Root Zone Model for Groundwater was used to generate groundwater EDWCs. The EDWCs of acetamiprid for acute exposures were estimated at 88.3 parts per billion (ppb) for surface water and 49.7 ppb for ground water. For chronic exposures (non-cancer assessment) the EDWCs were estimated at 32.2 ppb for surface water and 45.0 ppb for ground water. To assess dietary exposure contribution from drinking water, the higher acute EDWC of 88.3 ppb was used for acute assessment and for chronic exposures, the higher EDWC of 45 ppb was used. These modeled EDWCs were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Residential exposures to acetamiprid could result from the currently registered uses of spot-on dog treatments, application to mattresses, and as crack and crevice treatments. For the dog spot-on products, EPA determined that short- and intermediate-term residential exposures may occur for residential (non-professional) applicators through dermal and inhalation routes; and short-intermediate- and long-term exposures may occur post-application for adults and children through dermal exposures, and also through incidental oral ingestion for children 1–2 years old. For the mattress, crack, and crevice treatments, short- and intermediate-term residential handler exposure may occur through dermal and inhalation routes; and short- and intermediate-term exposures may occur post application for adults and children through dermal and inhalation routes, and also through incidental oral ingestion for children 1–2 years old. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard->

operating-procedures-residential-pesticide.

4. *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 acetamiprid to share a common mechanism of toxicity with any other substances, and acetamiprid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that acetamiprid 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 <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

C. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) 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 database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The pre- and post-natal toxicity databases for acetamiprid include developmental toxicity studies in the rat and rabbit, developmental neurotoxicity (DNT) study in rats and a 2-generation reproduction toxicity study in rats. There was no evidence of increased quantitative or qualitative susceptibility of rat or rabbit fetuses following *in utero* exposure to acetamiprid in the developmental toxicity studies. In the DNT and 2-generation reproduction studies there was no evidence of quantitative increased susceptibility observed. However, there was evidence of increased qualitative susceptibility of rat pups seen in the studies. In the DNT

study in rats, although both maternal and offspring effects were seen at the same dose level, offspring animals were more severely affected. Decreased pre-weaning survival, and decreased maximum auditory startle response were observed in the presence of limited maternal toxicity (body weight effects). In the 2-generation reproduction study, effects observed were a decrease in mean body weight, body weight gain, and food consumption in the parental animals, and significant reductions in body weights in pups (both generations). Also, reduction in litter size and viability and weaning indices were seen among the second generation of offspring, as well as significant delays in the age to attain vaginal opening and preputial separation. These offspring adverse effects were more severe than the parental effects.

3. *Conclusion.* EPA has determined that reliable data show that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

- i. The toxicity database for acetamiprid is complete.
- ii. Although there was evidence of increased qualitative susceptibility of the young in the DNT and 2-generation reproduction studies in rats, there are clear NOAELs identified for the effects observed in the toxicity studies. Also, there was no evidence of increased quantitative or qualitative susceptibility of rat or rabbit fetuses in the developmental toxicity studies.
- iii. Acetamiprid produced signs of neurotoxicity in the high dose groups in the acute and developmental neurotoxicity studies in rats and the subchronic toxicity study in mice. However, no neurotoxic findings were reported in the subchronic neurotoxicity study in rats. Additionally, there are clear NOAELs identified for the effects observed in the toxicity studies. The doses and endpoints selected for risk assessment are protective and account for all toxicological effects observed in the database, including neurotoxicity.
- iv. There are no residual uncertainties identified in the exposure databases. EPA made conservative (protective) assumptions in exposure assessments (food, drinking water and residential) assessment, including the use of 100 PCT assumptions, tolerance-level residue values, and upper-bound estimates of potential exposure through drinking water. In addition, the residential exposure assessment was conducted such that residential exposure and risk will not be underestimated. The aggregate exposure and risk estimates considered are

expected to over-estimate the actual exposure and risk anticipated, based on the current and proposed use patterns; no risk estimates of concern were identified. These assessments will not underestimate the exposure and risks posed by acetamiprid.

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to acetamiprid will occupy 69% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Typically, EPA does not consider residential exposures when assessing acute aggregate risk unless such exposures can be characterized as a series of single-day exposures. For acetamiprid, residential exposures are assessed as short- and intermediate-term exposures. Therefore, acute aggregate risk estimates for acetamiprid are equivalent to the acute dietary risk estimates which are not of concern.

2. *Chronic risk.* Using the exposure assumptions described in unit IV. for chronic exposure, EPA has concluded that chronic exposure to acetamiprid from food and water will utilize 62% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Dietary exposure from food and water, considered to be a background exposure level, is included in aggregate exposures for all population groups. Based on the explanation in Unit IV.B.3., adult aggregate chronic exposures also include long-term post-application dermal exposure from contact with dogs following spot-on treatment. For children 1 to 2 years old, aggregate chronic exposures also include long-term post-application dermal and incidental oral exposures from contact with spot-on treated dogs. The chronic dietary exposure and post-application pet spot-on residential exposure were aggregated and compared to the long-term POD. Adult and children long-term aggregate MOEs were 390 and 100,

respectively, and are above the level of concern of an MOE <100, indicating that risk estimates are not of concern. The chronic dietary exposure estimates are highly conservative, assuming tolerance-level residues for registered uses and 100 PCT for all commodities. Therefore, EPA also considers the aggregate MOEs to be conservative estimates.

3. *Short- and Intermediate-term risk.* Acetamiprid is currently registered for uses that could result in short/intermediate-term residential exposure. Short- (1 to 30 days) and intermediate-term (1–6 months) aggregate exposures take into account short- and intermediate-term residential exposures plus chronic exposure to food and water (considered to be a background exposure level). Toxicological endpoints and points of departure for assessing short- and intermediate-term risks (including oral, dermal, and inhalation routes of exposure) are identical for acetamiprid. Therefore, separate assessments were not conducted and one risk assessment addresses both of these durations. Using the exposure assumptions described in unit IV.B.3. for short/intermediate-term exposures, EPA has concluded the combined short/intermediate-term food, water, and residential exposures result in aggregate MOEs of 290 for adults and 110 for children. Because EPA's level of concern for acetamiprid is an MOE of <100, these MOEs do not indicate risks of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, acetamiprid is classified as “not likely to be carcinogenic to humans” and is therefore not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to acetamiprid residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies are available to enforce the tolerance expression, including gas chromatography with electron capture detection (GC/ECD) for vegetables and non-citrus fruits, high performance liquid chromatography with ultraviolet detection (HPLC/UV) for citrus fruits only, and HPLC with tandem mass spectrometric detection (LC/MS/MS) for vegetables and non-citrus fruits.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

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 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 an MRL for acetamiprid on sugarcane.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of acetamiprid, (1*E*)-*N*-[(6-chloro-3-pyridinyl)methyl]-*N'*-cyano-*N*-methylethanimidamide, in or on sugarcane, cane at 45 ppm and sugarcane, molasses at 600 ppm. These tolerances expire on December 31, 2019.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). 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 in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

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

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA submitted 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: March 16, 2017.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.578, revise paragraph (b) to read as follows:

§ 180.578 Acetamiprid; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of the acetamiprid, (1*E*)-*N*-[(6-chloro-3-pyridinyl)methyl]-*N*'-cyano-*N*-methylmethanimidamide, in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. Compliance with the tolerance levels specified below is to be determined by measuring only acetamiprid. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration date
Sugarcane, cane	45	12/31/2019
Sugarcane, molasses	600	12/31/2019

* * * * *

[FR Doc. 2017-07131 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2003-0010; FRL-9960-74-Region 7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Omaha Lead Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U. S. Environmental Protection Agency (EPA) Region 7 announces the deletion of 294 residential parcels of the Omaha Lead, Superfund Site (Site) located in Omaha,

Nebraska, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to 294 residential parcels. The remaining parcels of the Site will remain on the NPL and are not being considered for deletion as part of this action. The EPA and the State of Nebraska, through the Nebraska Department of Environmental Quality, determined that all appropriate Response actions under CERCLA were completed at the identified parcels. However, this deletion does not preclude future actions under Superfund.

DATES: This action is effective April 10, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-HQ-SFUND-2003-0010. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours of the Site information repositories are:

- EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, open from 8 a.m. to 4 p.m. Monday–Friday.
- W. Dale Clark Library, located at 215 S. 15th Street, Omaha, NE 68102, open 10 a.m. to 8 p.m. Monday–Thursday; 10 a.m. to 6 p.m. Friday and Saturday; and 1 p.m. to 6 p.m. Sunday.

FOR FURTHER INFORMATION CONTACT: Don Bahnke, Remedial Project Manager, U.S. Environmental Protection Agency, Region 7, SUPR/LMSE, 11201 Renner Boulevard, Lenexa, KS 66219, telephone (913) 551-7747, email: bahnke.donald@epa.gov.

SUPPLEMENTARY INFORMATION: The portion of the site to be deleted from the NPL are 294 residential parcels of the Omaha Lead Superfund site, Omaha, Nebraska. A Notice of Intent of Partial Deletion for this Site was published in

the **Federal Register** (81 FR 65315) on September 22, 2016.

The closing date for comments on the Notice of Intent for Partial Deletion was October 24, 2016. Two public comments were received. One comment was supportive of this action, and the other appears to be a misunderstanding of the current status of the Site. Neither comment is a significant adverse comment and the docket already contains information concerning the current status of the site. The EPA took steps to minimize lead contaminated particulates being released during the remediation of the yards. The site has already undergone remediation and the source of the contamination has been addressed. And with no adverse comments, the EPA still believes that the partial deletion action is appropriate.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

Dated: March 20, 2017.

Edward H. Chu,

Acting Regional Administrator, Region 7.

[FR Doc. 2017-07123 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****49 CFR Part 192**

[Docket No. PHMSA–2016–0067]

Pipeline Safety: Guidance on Training and Qualifications for the Integrity Management Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Issuance of advisory bulletin.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) published the gas transmission pipeline integrity management (IM) rule in the **Federal Register** on December 15, 2003. This rule, in part, established requirements for supervisory and other personnel with IM program functions. PHMSA has recognized inconsistencies in how the requirements have been implemented by operators and is issuing this Advisory Bulletin to remind operators of their responsibility to include qualification requirements for IM personnel, as required by PHMSA regulations and discussed in the American Society of Mechanical Engineers (ASME) ASME B31.8S–2004.

DATES: April 10, 2017.

FOR FURTHER INFORMATION CONTACT:

Nancy White by phone at 202–366–1419 or email nancy.white@dot.gov. All materials in this docket are electronically accessible at <http://www.regulations.gov>. Information about PHMSA is available at <http://www.phmsa.dot.gov>.

SUPPLEMENTARY INFORMATION:**I. Background**

PHMSA has long recognized and communicated the critical importance of training and qualifications for operator personnel who perform tasks related to pipeline safety. For example, in 1999 PHMSA adopted general qualification requirements for all individuals performing covered tasks under § 192.805. PHMSA established specific qualification requirements for supervisory and other personnel with IM-assigned tasks under § 192.915 as part of the gas transmission pipeline IM rule (December 15, 2003, 68 FR 69777). Specifically, PHMSA requires IM programs to assure certain persons have appropriate training or experience to be considered qualified for their areas of responsibility. These requirements apply to operator and contractor

personnel (contractors, suppliers, vendors, etc.) who perform certain IM-related tasks.

For supervisory personnel, § 192.915 requires that the IM program must ensure that:

- Each supervisor whose responsibilities relate to the IM program possess and maintain a thorough knowledge of the IM program and the elements for which the supervisor is responsible; and
- Any person who qualifies as a supervisor for the IM program has appropriate training or experience in the area for which that person is responsible.

For personnel performing IM-assigned tasks, the rule requires an operator's IM program to provide criteria for their training and qualifications. The elements of IM covered under § 192.915 apply to individuals who:

- Conduct assessments;
- Review and analyze results from integrity assessments; or
- Make decisions on actions to be taken based on these assessments.

The program must also include criteria for the qualification of individuals who:

- Implement preventive measures and mitigative measures to carry out the requirements of the rule, including the marking and locating of buried structures; or
- Directly supervise excavation work carried out in conjunction with an integrity assessment.

II. Advisory Bulletin (ADB–2017–02)

To: Owners and Operators of Natural Gas Transmission Pipelines

Subject: Guidance on Training and Qualifications for the Integrity Management Program

Advisory: PHMSA is issuing this Advisory Bulletin to remind operators of natural gas transmission pipelines of PHMSA's expectations regarding how mature IM programs should implement the training and qualification requirements included in § 192.915 and discussed in ASME B31.8S–2004. PHMSA's expectations for operator implementation of each subsection in § 192.915 are outlined as follows:

Section 192.915—“What knowledge and training must personnel have to carry out an integrity management program?”

- This rule requires operator personnel involved in the IM program to be qualified for their assigned responsibilities, including the following:
 - Personnel qualification requirements must be identified for anyone involved in the IM program.

This applies to both operator and contractor personnel (contractors, suppliers, vendors, etc.);

- Qualification criteria must include minimum requirements for experience or training in order to verify individuals have the knowledge and skills necessary to perform IM-related tasks; and
- The operator must determine whether qualifications are current.
 - The rule requires operators to verify that the personnel who execute activities within the IM program are qualified in accordance with the quality assurance process required by § 192.911(l).
 - Documentation of qualification must be maintained in accordance with the operator's IM program.

Section 192.915(a)—“Supervisory Personnel”

The regulation covers qualification and training requirements for supervisory personnel with responsibilities in an IM program.

- This rule requires operators to verify that the IM program requires supervisory personnel to have the appropriate training or experience for their assigned responsibilities, including the following:

- Personnel with supervisory authority that relates to the operator's IM process must meet documented qualification requirements for the aspects of the IM program that fall under their authority;
- Qualification requirements must include minimum requirements for experience or training to verify individuals have the knowledge to perform IM-related tasks; and
- Tracking of qualification deficiencies and requalification requirements is essential to verify that individuals in supervisory positions are qualified.

Section 192.915(b)—“Persons who Carry out Assessments and Evaluate Assessment Results”

The regulation covers qualification requirements for personnel performing certain IM tasks related to the conduct of integrity assessments, analysis of integrity assessment results, and the decisions on actions to be taken based on integrity assessments.

- This rule requires operators to verify the IM program requires qualification of personnel who carry out assessments and evaluate assessment results, including the following:
 - Personnel who carry out or evaluate assessment information must meet documented qualification requirements—this applies to both operator and contractor personnel.

- Qualification requirements must include minimum requirements for experience or training to verify that individuals have the knowledge and skills necessary to perform IM-related tasks, including analysis, data integration, integrity assessments, and assessment results evaluation.
- Qualification requirements must be established for all tasks necessary to carry out integrity assessments and evaluate assessment results, including:
 - Performing the integrity assessment;
 - Evaluating the results of the integrity assessment;
 - Integrating any other available information or data gathered in accordance with § 192.917(b) that is applicable to the covered segment being assessed; and
 - Deciding on actions to be taken based on these assessments.
- The operator is responsible for verifying the qualifications of contractor personnel who conduct essential tasks in performing or evaluating assessments.

Section 192.915(c)—“Persons Responsible for Preventive and Mitigative Measures”

The regulation covers qualification requirements for personnel who

implement preventive and mitigative measures and who supervise excavation work carried out in conjunction with an integrity assessment.

- This rule mandates that operators verify their IM program requires qualification of personnel who participate in implementing preventive measures and mitigative measures, including: (1) Personnel who mark and locate buried structures, (2) personnel who directly supervise integrity assessment excavation work, and (3) other personnel who participate in implementing preventive measures and mitigative measures.

- Personnel who implement preventive measures and mitigative measures may hold a range of job positions, including (but not limited to): Management and technical personnel, risk evaluators, operators, excavation crews, welders, and pipeline safety engineers. With respect to these personnel, the rule requires that operators:

- Define the roles and responsibilities of personnel implementing preventive measures and mitigative measures;
- Define the qualification requirements as they relate to implementing preventive measures and mitigative measures; and

- Verify personnel satisfy the defined qualification requirements.

- The rule requires that qualification requirements be established for all tasks required to implement preventive measures and mitigative measures, including:

- Marking and locating buried structures;
- Supervising integrity assessment excavation work; and
- Applying risk assessment results to determine what additional preventive measures and mitigative measures need to be implemented for the covered segment being assessed in accordance with § 192.917(c).

PHMSA inspectors will use this Advisory Bulletin to clarify the intent of existing regulatory language when evaluating operator IM program personnel training and qualification effectiveness.

Issued in Washington, DC, on March 29, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017-06805 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-60-P

Proposed Rules

Federal Register

Vol. 82, No. 67

Monday, April 10, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0246; Directorate Identifier 2017-NM-011-AD]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777-200 and -300 series airplanes equipped with Rolls-Royce Model RB211-Trent 800 engines. This proposed AD was prompted by reports of inadequate clearance between the thermal protection system (TPS) insulation blankets and the electronic engine control (EEC) wiring, which resulted in damaged wires. This proposed AD would require repetitive inspections of the EEC wire bundles and clips, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 25, 2017.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0246.

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-2017-0246; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6501; fax: 425-917-6590; email: kevin.nguyen@faa.gov.

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-2017-0246; Directorate Identifier 2017-NM-011-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received reports of inadequate clearance between the TPS insulation blankets and the EEC wiring, which resulted in damaged wires. This condition, if not corrected, could result in in-flight shutdown of the engine, or the inability to properly control thrust, and consequent reduced controllability of the airplane.

We issued AD 2016-11-16, Amendment 39-18543 (81 FR 39547, June 17, 2016) ("AD 2016-11-16"), on May 20, 2016. Among other actions, AD 2016-11-16 requires repetitive inspections of the EEC wire bundles and clips for airplanes with certain TPS insulation blankets. Since AD 2016-11-16 was issued, we have determined that these repetitive inspections were inadvertently terminated in AD 2016-11-16 through the installation of serviceable thrust reverser (T/R) halves. We are proposing this AD to reinstate the repetitive inspections of the EEC wire bundles and clips for certain airplanes.

Related Service Information Under 14 CFR Part 51

We reviewed Boeing Service Bulletin 777-78-0082, Revision 1, dated June 15, 2015. The service information describes, among other things, procedures for repetitive inspections of the EEC wire bundles and clips, and corrective actions if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described

previously. For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0246.

The phrase “corrective actions” is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 55 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 (required for right T/R half only).	3 work-hours × \$85 per hour = \$255 per engine per inspection cycle.	\$0	\$255 per engine per inspection cycle.	\$28,050 (2 T/R halves per airplane) per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the repairs specified in this proposed AD. We estimate the following

costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number

of aircraft that might need these repairs or replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of EEC wire harness	1 work-hour × \$85 per hour = \$85	\$8,500	\$8,585

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA-2017-0246; Directorate Identifier 2017-NM-011-AD.

(a) Comments Due Date

We must receive comments by May 25, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777-200 and -300 series airplanes, certificated in any category, equipped with Rolls-Royce Model RB211-Trent 800 engines, on which the actions specified in Boeing Alert Service Bulletin 777-78A0094 have been incorporated, and the condition specified in either paragraph (c)(1) or (c)(2) of this AD is met.

(1) Thermal protection system (TPS) non-re-contoured insulation blankets having part numbers (P/N) 315W5115-2, -6, or -20 are installed on the thrust reverser (T/R) inner wall.

(2) Rolls Royce Modification Service Bulletin RR.211-71-H824, dated July 30, 2014, has not been incorporated on the engine.

(d) Subject

Air Transport Association (ATA) of America Code 78, Engine exhaust.

(e) Unsafe Condition

This AD was prompted by reports of inadequate clearance between the TPS insulation blankets and the electronic engine

control (EEC) wiring, which resulted in damaged wires. We are issuing this AD to detect and correct damaged wires, which could result in in-flight shutdown of the engine, or the inability to properly control thrust, and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Repetitive EEC Wire Bundle Inspection

Within 2,000 flight hours since the most recent EEC wire bundle inspection done as specified in Boeing Special Attention Service Bulletin 777-78-0071; or Boeing Service Bulletin 777-78-0082; or within 500 flight hours after the effective date of this AD, whichever occurs later: Do a detailed inspection for damage of the EEC wire bundles and clips, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777-78-0082, Revision 1, dated June 15, 2015. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed 2,000 flight hours.

(h) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Boeing Special Attention Service Bulletin 777-78-0071, Revision 2, dated July 23, 2013.

(2) Boeing Service Bulletin 777-78-0082, dated November 9, 2011.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6501; fax: 425-917-6590; email: kevin.nguyen@faa.gov.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-06800 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0142; Directorate Identifier 2016-SW-013-AD]

RIN 2120-AA64

Airworthiness Directives; Agusta S.p.A.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Agusta S.p.A. Model A109S helicopters. This proposed AD is prompted by a report of a cabin liner detaching from the helicopter and hitting the main rotor (M/R) blades during flight. This proposed AD would require adding limitations to the rotorcraft flight manual (RFM). The proposed actions are intended to prevent an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 9, 2017.

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

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building

Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0142; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39-0331-664757; fax 39 0331-664680; or at <http://www.agustawestland.com/technical-bulletins>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone (817) 222-5110; email matthew.fuller@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2015-0227, dated November 19, 2015, to correct an unsafe condition for AgustaWestland S.p.A. Model A109S helicopters. EASA advises of a report that the right-hand lower cabin liner of Internal Arrangement part number (P/N) 109-0814-21-101 detached and hit three main rotor blades during a landing with the right-hand door removed. EASA states that this condition, if not corrected, could lead to further occurrences of in-flight lower cabin liner detachment, possibly resulting in damage to or loss of control of the helicopter. Therefore, the EASA AD requires revising the RFM to provide limitations on flights with a passenger cabin sliding door opened or removed. EASA considers its AD an interim action and states further AD action may follow.

FAA's Determination

This helicopter has been approved by the aviation authority of Italy and is approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other helicopters of the same type design.

Related Service Information

We reviewed AgustaWestland A109S RFM, Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, which adds several limitations regarding flight with a passenger cabin sliding door opened or removed.

Proposed AD Requirements

This proposed AD would require, within 15 hours time-in-service, revising the Limitations section of the RFM by inserting a copy of this AD or

by making pen-and-ink changes to add several limitations: Prohibiting flight with a passenger cabin sliding door opened or removed for helicopters with Internal Arrangement P/N 109-0814-21-101 installed; prohibiting flight with a passenger cabin sliding door open unless modification P/N 109-0814-35 is installed; prohibiting flight with a passenger cabin sliding door open unless the doors are locked; establishing a maximum V_{NE} with a passenger cabin sliding door opened or removed; establishing a maximum airspeed for opening or closing a passenger cabin sliding door during flight; and prohibiting instrument flight rule operation with any door opened or removed.

Interim Action

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

Costs of Compliance

We estimate that this proposed AD would affect 19 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of \$85 per work-hour, revising the RFM would take about 0.5 work-hour, for an estimated cost of \$43 per helicopter, or \$817 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 determined that this proposed AD would not have federalism implications

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

For the reasons discussed, I certify this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Agusta S.p.A.: Docket No. FAA-2017-0142; Directorate Identifier 2016-SW-013-AD.

(a) Applicability

This AD applies to Model A109S helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as detachment of an internal arrangement lower cabin liner. This condition could result in damage to a main rotor blade and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by June 9, 2017.

(d) Compliance

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

(e) Required Actions

Within 15 hours time-in-service, revise Section 1 Limitations of the AgustaWestland

Model A109S Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by making pen-and-ink changes to

add the information in Figure 1 to paragraph (e) of this AD.

Flight with either one or both passenger cabin sliding doors opened or removed is prohibited if Internal Arrangement P/N 109-0814-21-101 is installed.

Flight with either one or both passenger cabin sliding doors opened is prohibited if passenger door modification P/N 109-0814-35 is not installed.

Flight with one or both passenger cabin sliding doors opened is allowed only with the doors locked.

V_{NE} with any passenger cabin sliding door opened or removed: 75 KIAS

Maximum airspeed for passenger cabin sliding doors opening or closing: 50 KIAS

IFR operation is prohibited with any door opened or removed.

Figure 1 to Paragraph (e)

(f) Credit for Previous Actions

Incorporating the changes contained in AgustaWestland A109S RFM, Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, into Section 1 of the RFM before the effective date of this AD is considered acceptable for compliance with this AD.

(g) Special Flight Permits

Special flight permits are prohibited.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, 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.

(i) Additional Information

(1) AgustaWestland A109S RFM Document No. 109G0040A013, Issue 2, Revision 3, dated April 23, 2015, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39-0331-664757; fax 39 0331-664680; or at <http://www.agustawestland.com/technical-bulletins>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2015-0227, dated November 19, 2015. You may view the EASA AD on the Internet at <http://www.regulations.gov> in the AD Docket.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 2500 Cabin Equipment/Furnishings.

Issued in Fort Worth, Texas, on March 31, 2017.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2017-06961 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

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

Proposed Amendment of Class E Airspace; Mineral Point, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Iowa County Airport, Mineral Point, WI. This action is necessary due to the

decommissioning of the Mineral Point non-directional radio beacon (NDB) and cancellation of the NDB approach. This action would enhance the safety and management of standard instrument approach procedures for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before May 25, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826, or 1-800-647-5527. You must identify FAA Docket No. FAA-2017-0181; Airspace Docket No. 17-AGL-7, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Contract Support, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222-5859.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Iowa County Airport, Mineral Point, WI.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2017-0181/Airspace Docket No. 17-AGL-7." The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday,

except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX, 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet or more above the surface within a 6.6-mile radius (reduced from a 7.2-mile radius) of Iowa County Airport, Mineral Point, WI. The 5.2-mile wide segment from the Mineral Point NDB extending from the 7.2 mile radius of the airport to 7.4 miles northeast would be removed.

Airspace reconfiguration is necessary due to the decommissioning and cancellation of the Mineral Point NDB, and NDB approaches, which would enhance the safety and management of the standard instrument approach procedures for IFR operations at the airport.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL WI E5 Mineral Point, WI [Amended]

Iowa County Airport, WI

(Lat. 42°53'13" N., long. 90°14'12" W.)

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

Issued in Fort Worth, TX, on March 29, 2017.

Walter Tweedy,

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

[FR Doc. 2017-06893 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2017-0183; Airspace Docket No. 17-ASW-4]

Proposed Amendment of Class E Airspace for the following Louisiana Towns; Leesville, LA; and Patterson, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Leesville City Airport, Leesville, LA, and Harry P. Williams Memorial Airport, Patterson, LA. Airspace redesign is necessary due to the decommissioning of the Leesville non-directional radio beacon (NDB), and the Patterson radio beacon (RBN), and cancellation of NDB and RBN approaches, and for the safe management of instrument flight rules (IFR) operations at these airports.

DATES: Comments must be received on or before May 25, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826, or 1-800-647-5527. You must identify FAA Docket No. FAA-2017-0183; Airspace Docket No. 17-ASW-4, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527), is on the ground floor of the building at the above address.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of FAA Order 7400.11A at NARA, call 202-741-6030, or go to http://www.archives.gov/federal-register/code_of_federal-regulations/ibr_locations.html.

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

FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Operations Support Group, Central Service Center, Federal Aviation Administration 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222-5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Leesville City Airport, Leesville, LA and Harry P. Williams Memorial Airport, Patterson, LA, due to the decommissioning of associated navigation aids.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2017-0183/Airspace Docket No. 17-ASW-4." The postcard

will be date/time stamped and returned to the commenter.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at: Leesville Airport, Leesville, LA, to within a 6.4-mile radius (reduced from a 6.5-mile radius) of Leesville Airport, and within 3.7 miles each side of the 360° bearing from the airport (modified from 3.6 miles from each side of the 345° bearing) extending from the 6.4-mile radius (reduced from a 6.5-mile radius) to 12.3 miles (reduced from 12.2 miles) north of the airport, and removing the segment within 2.5 miles each side of the 000° bearing of the Leesville NDB extending from the 6.5-mile radius to 7.3 miles north of the airport; and Harry P. Williams Memorial Airport, Patterson, LA; by removing the segment within 2.5 miles each side of the 233° bearing from the Patterson RBN extending from the 6.5-mile radius to 7.5 miles southwest of the airport.

Airspace reconfiguration is necessary due to the decommissioning of the Leesville (NBD) and Patterson RBN, and cancellation of the navigation aid approaches at these airports. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at these airports.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2015, and effective September 15, 2016, is amended as follows:

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

* * * * *

ASW LA E5 Leesville, LA [Amended]

Leesville Airport, LA
(Lat. 31°10'06" N., long. 93°20'33" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Leesville Airport, and within 3.7 miles each side of the 360° bearing from the airport extending from the 6.4-mile radius to 12.3 miles north of the airport, excluding that airspace within the Fort Polk, LA, Class D airspace area, and excluding that airspace within restricted area R-3803A.

* * * * *

ASW LA E5 Patterson, LA [Amended]

Patterson, Harry P. Williams Memorial Airport, LA
(Lat. 29°42'39" N., long. 91°20'23" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Harry P. Williams Memorial Airport.

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

Walter Tweedy,

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

[FR Doc. 2017-07007 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-13-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2015-0654; FRL-9961-01-Region 1]

Air Plan Approval; CT; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut Department of Energy and Environmental Protection. This revision includes regulatory amendments that

require gasoline dispensing facilities (GDFs) to decommission their Stage II vapor recovery systems on or before July 1, 2015, and a demonstration that such removal is consistent with the Clean Air Act and EPA guidance. This revision also includes regulatory amendments that strengthen Connecticut's requirements for Stage I vapor recovery systems at GDFs. The intended effect of this action is to propose approval of Connecticut's revised vapor recovery regulations. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2015-0654 at <http://www.regulations.gov>, or via email to arnold.anne@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA Region 1 Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1660, fax number (617) 918-0660, email garcia.ariel@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Summary of Connecticut's SIP Revision
- III. EPA's Evaluation of Connecticut's SIP Revision
- IV. Proposed Action
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Background and Purpose

On September 14, 2015, the Connecticut Department of Energy and Environmental Protection submitted a revision to its State Implementation Plan (SIP). The SIP revision consists of Connecticut's newly adopted section 22a-174-30a, *Stage I Vapor Recovery*, of the Regulations of Connecticut State Agencies (RCSA) as well as the following revised RCSA sections:

- 22a-174-3a, *Permit to Construct and Operate Stationary Sources*, specifically 22a-174-3a(a);
- 22a-174-20, *Control of Organic Compound Emissions*, specifically 22a-174-20(a), 22a-174-20(b)(1) through (b)(16), and 22a-174-20(ee); and
- 22a-174-32, *Reasonably Available Control Technology (RACT) for Volatile Organic Compounds*, specifically 22a-174-32(b).

In addition, this SIP revision also includes Public Act No. 13-120, *An Act Concerning Gasoline Vapor Recovery Systems*. Connecticut Public Act No. 13-120 revises section 22a-174e of the Connecticut General Statutes (CGS). The regulations and statute require the decommissioning of Stage II vapor recovery systems and strengthen Stage I vapor recovery requirements. The SIP submittal also includes a demonstration that removal of Stage II vapor recovery systems in Connecticut is consistent with the Clean Air Act and EPA guidance. Finally, the SIP revision includes the withdrawal of RCSA section 22a-174-30, *Dispensing of Gasoline/Stage I and Stage II Vapor Recovery*, from the Connecticut SIP.

Connecticut subsequently modified the September 14, 2015 SIP revision via a letter dated January 20, 2017 wherein Connecticut withdrew RCSA 22a-174-3a(a) from consideration as part of this SIP revision.

Stage II and onboard refueling vapor recovery (ORVR) systems are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II vapor recovery systems are installed at gasoline dispensing facilities and capture the refueling fuel vapors at the gasoline pump. The system carries the vapors back to the underground storage tank at the GDF to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the

fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Stage II vapor recovery systems and vehicle ORVR systems were initially both required by the 1990 Amendments to the Clean Air Act (CAA). Section 182(b)(3) of the CAA requires moderate and above ozone nonattainment areas to implement Stage II vapor recovery programs. Also, under CAA section 184(b)(2), states in the Ozone Transport Region (OTR) are required to implement Stage II or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty vehicles (passenger cars). EPA adopted these requirements in 1994, at which point moderate ozone nonattainment areas were no longer subject to the CAA section 182(b)(3) Stage II vapor recovery requirements. ORVR equipment has been phased in for new passenger vehicles beginning with model year 1998, and starting with model year 2001 for light-duty trucks and most heavy-duty gasoline powered vehicles. ORVR equipment has been installed on nearly all new gasoline-powered light-duty vehicles, light-duty trucks, and heavy-duty vehicles since 2006.

During the phase-in of ORVR controls, Stage II has provided volatile organic compound (VOC) reductions in ozone nonattainment areas and certain attainment areas of the OTR. Congress recognized that ORVR systems and Stage II vapor recovery systems would eventually become largely redundant technologies, and provided authority to EPA to allow states to remove Stage II vapor recovery programs from their SIPs after EPA finds that ORVR is in "widespread use." Effective May 16, 2012, the date the final rule was published in the **Federal Register** (see 77 FR 28772), EPA determined that ORVR systems are in widespread use nationwide for control of gasoline emissions during refueling of vehicles at GDFs. As of the end of 2016, EPA estimates that more than 88 percent of gasoline refueling nationwide occurs with ORVR-equipped vehicles.¹ Thus, Stage II vapor recovery programs have become largely redundant control systems and Stage II vapor recovery systems achieve an ever declining emissions benefit as more ORVR-equipped vehicles continue to enter the

¹ See Appendix Table A-1 of EPA's Guidance Document, "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures" (EPA-457/B-12-001; August 7, 2012).

on-road motor vehicle fleet.² In the May 16, 2012 rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II vapor recovery systems at GDFs. This decision exempts all new ozone nonattainment areas classified serious or above from the requirement to adopt Stage II vapor recovery programs. Finally, EPA's May 16, 2012 rulemaking also noted that any state currently implementing Stage II vapor recovery programs may submit SIP revisions that would allow for the phase-out of Stage II vapor recovery systems.

Stage I vapor recovery systems are systems that capture vapors displaced from storage tanks at GDFs during gasoline tank truck deliveries. When gasoline is delivered into an aboveground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the delivery truck's tank. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

Stage I vapor recovery systems have been in place since the 1970s. EPA has issued the following guidance regarding Stage I systems: "Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations" (November 1975, EPA Online Publication 450R75102), which is regarded as the control techniques guideline (CTG) for the control of VOC emissions from this source category; and the EPA document "Model Volatile Organic Compound Rules for Reasonably Available Control Technology" (Staff Working Draft, June 1992) contains a model Stage I regulation.

In more recent years, the California Air Resources Board (CARB) has required Stage I vapor recovery systems capable of achieving vapor control efficiencies higher than those achieved by traditional systems. These systems are commonly referred to as Enhanced Vapor Recovery (EVR) systems. One of the essential components of these CARB Stage I EVR systems are CARB EVR

Pressure/Vacuum (P/V) vent valves. These valves are manufactured of better quality materials and construction, when compared to non-CARB EVR P/V vent valves, and are thus expected to reduce P/V vent valve failures and decrease emissions.

II. Summary of Connecticut's SIP Revision

The Connecticut Stage II vapor recovery program requirements, codified in RCSA section 22a-174-30, *Dispensing of Gasoline/Stage I and Stage II Vapor Recovery*, were initially approved into the Connecticut SIP on December 17, 1993 (58 FR 65930). Connecticut's rule required GDFs throughout the state to install Stage II vapor recovery systems. On August 31, 2006 (71 FR 51761), EPA approved a revised version of RCSA section 22a-174-30, into the Connecticut SIP, which added new requirements for GDFs to install P/V vent valves.

On September 14, 2015, Connecticut submitted a SIP revision consisting of its request to withdraw RCSA section 22a-174-30 from the SIP, and add RCSA section 22a-174-30a to the Connecticut SIP. Connecticut's request to withdraw RCSA section 22a-174-30 from the SIP stems from the State's repeal of this regulation as of July 1, 2015. This SIP revision also includes revisions to RCSA sections 22a-174-20(a), 22a-174-20(b)(1) through (b)(16), 22a-174-20(ee), and 22-174-32(b), as well as the addition of Connecticut Public Act No. 13-120.

This SIP revision includes regulatory amendments that prohibit all GDFs from installing Stage II vapor recovery systems as of June 18, 2013, the effective date of Public Act No. 13-120 (*i.e.* the effective date of the revised CGS section 22a-174e). The SIP revision also includes legislative and regulatory amendments, via Public Act No. 13-120, that require all GDFs equipped with Stage II vapor recovery systems to decommission their Stage II vapor recovery systems on or before July 1, 2015. Connecticut's regulations were then revised, effective July 8, 2015, to remove the requirement for the installation and operation of Stage II vapor recovery systems, while retaining the Stage I vapor recovery requirements for GDFs, so that the regulations conform to the requirements of Public Act No. 13-120. In addition, Connecticut Public Act No. 13-120, as well as RCSA section 22a-174-30a, increase the Stage I vapor control equipment testing frequency at GDFs from a three-year interval to annual testing. RCSA section 22a-174-30a also requires GDFs to install a CARB-

approved EVR pressure/vacuum (P/V) vent valve when any existing P/V vent valve is replaced. These latter changes to Connecticut's Stage I vapor control regulations strengthened the regulatory requirements.

Connecticut's RCSA subsections 22a-174-20(ee)(2) and 22a-174-32(b)(3)(E)(ii) were revised to appropriately cite the newly adopted RCSA section 22a-174-30a where reference was previously made to, the now repealed, RCSA section 22a-174-30. Also, Connecticut's RCSA subsection 22a-174-20(a)(7) was revised to clarify the requirements for the external surfaces of aboveground storage tanks containing VOCs.

The Stage I vapor recovery requirements for GDFs contained in RCSA subsections 22a-174-20(b)(6) through (b)(9), as well as those contained in, the now repealed, RCSA section 22a-174-30, were consolidated and moved into the new RCSA section 22a-174-30a. Connecticut's RCSA subsections 22a-174-20(b)(10) through (b)(16), were revised to clarify and strengthen the Connecticut Stage I vapor recovery program requirements for fuel tank trucks.

Furthermore, the revised Stage I regulations require any GDF with a monthly throughput of 10,000 gallons or more on or after July 1, 2015 to maintain Stage I systems that meet the same management practices required by EPA's National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Source Category: Gasoline Dispensing Facilities, 40 CFR part 63, subpart CCCCC.

Connecticut's September 14, 2015 SIP revision also includes a narrative demonstration supporting the discontinuation of the Connecticut Stage II vapor recovery program. This demonstration consists of an analysis that the Stage II vapor recovery controls provide only *de minimis* emission reductions due to the prevalence of ORVR-equipped vehicles in Connecticut in 2013. In fact, Connecticut's September 14, 2015 submission explained that any VOC emissions increase that may have occurred in 2013 or 2014 were too small to interfere with attainment and reasonable further progress towards attainment of the ozone NAAQS. Connecticut's submission also stated, and demonstrated, that continuing a Stage II vapor recovery program from 2015 and beyond would have resulted in an *increase in refueling emissions* due to excess emissions from the incompatibility of ORVR and certain Stage II systems.

²In areas where certain types of vacuum-assist Stage II vapor recovery systems are used, the differences in operational design characteristics between ORVR and some configurations of these Stage II vapor recovery systems result in the reduction of overall control system efficiency compared to what could have been achieved relative to the individual control efficiencies of either ORVR or Stage II emissions from the vehicle fuel tank.

III. EPA's Evaluation of Connecticut's SIP Revision

As noted above, Connecticut's September 14, 2015 SIP revision includes the decommissioning of Stage II vapor recovery systems in the State. EPA has reviewed Connecticut's repeal of RCSA section 22a-174-30, Public Act No. 13-120, and the accompanying SIP narrative, and has concluded that Connecticut's September 14, 2015 SIP revision is consistent with EPA's widespread use rule (77 FR 28772; May 16, 2012) and EPA's "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures" (EPA-457/B-12-001; August 7, 2012), hereafter referred to as EPA's Guidance Document.

Connecticut's September 14, 2015 SIP revision includes a CAA section 184(b)(2) "comparable measures" demonstration and a CAA section 110(l) anti-back sliding demonstration based on equations in EPA's Guidance Document. According to these calculations, the potential loss of refueling emission reductions from removing Stage II vapor recovery systems in 2013 is 4.3 percent, thus meeting the 10 percent *de minimis* recommendation in EPA's Guidance Document. The fact that the Connecticut demonstration is based on 2013, while the regulation does not require decommissioning of all Stage II systems until 2015, represents a conservative estimate as the potential loss of emission reductions decreases over time as more and more ORVR systems are phased-in. Furthermore, Connecticut estimates that retaining Stage II vapor recovery systems beyond 2015 would have resulted in an increase in emissions³ due to the excess emissions generated by the refueling of ORVR-equipped vehicles at the incompatible Stage II vapor recovery systems found throughout Connecticut.

In addition, Connecticut's September 14, 2015 SIP revision also includes calculations illustrating that the overall emissions effect of removing the Stage II vapor recovery program would be an increase of about 200 tons of VOC in 2013. EPA's 2011 National Emissions Inventory database, Version 2, illustrates that Connecticut's statewide anthropogenic VOC emissions were about 79,937 tons (see <https://www.epa.gov/air-emissions-inventories/2011-national-emissions-inventory-nei-data>). Therefore, the VOC emissions

³ See "Table D-3: 2015 Stage II calculations" in Appendix D of Attachment A of Connecticut's September 14, 2015 SIP submittal.

increase of 200 tons per year calculated by Connecticut is only about 0.3 percent of the total anthropogenic VOC emissions in Connecticut. Also, as noted above, these foregone emissions reductions in the near term continue to diminish rapidly over time as ORVR phase-in continues. Thus, EPA believes that the resulting temporary increase in VOC emissions will not interfere with attainment or maintenance of the ozone National Ambient Air Quality Standards (NAAQS).

Furthermore, Appendix Table A-1 of EPA's Guidance Document illustrates that by the end of 2012 about 71% of the vehicles in the national motor vehicle fleet would have been equipped with ORVR.⁴ The number of ORVR-equipped vehicles in Connecticut at that time was likely even higher, however, due to Connecticut having a more accelerated motor vehicle fleet turnover when compared to the national motor vehicle fleet.⁵ Appendix Table A-1 of EPA's Guidance Document also illustrates that by the end of 2012, about 78% of gasoline dispensed nationally would have been to ORVR-equipped vehicles, which is also likely to have been higher in Connecticut due to a newer motor vehicle fleet.⁶ At that point in time, since a vast majority of Connecticut's vehicles being refueled at GDFs would have been equipped with ORVR systems, the ORVR systems would have been controlling the VOC emissions, making Stage II vapor recovery systems a redundant, and potentially incompatible, emissions control technology in Connecticut. Therefore, removing the Stage II systems is not expected to result in a significant emissions increase, and is actually

⁴ Although Connecticut requires that all GDFs decommission their Stage II vapor recovery systems on or before July 1, 2015, GDFs could have begun decommissioning Stage II systems as of June 18, 2013 (the effective date of Public Act No. 13-120). An analysis of the removal of Stage II controls by the end of 2012 is a conservative calculation of the emission impacts of decommissioning Stage II vapor recovery systems, due to future years having a greater percentage of ORVR-equipped vehicles in the motor vehicle fleet.

⁵ *Final Report Analysis of Future Options For Connecticut's Gasoline Dispensing Facility Vapor Control Program*, de la Torre-Klausmeier Consulting, Inc., June 4, 2012, includes an analysis conducted using EPA's Motor Vehicle Emissions Simulator (MOVES) model which illustrates that by the end of 2012, the fraction of gasoline vehicles in Connecticut equipped with ORVR was about 75%. This is a slightly more accelerated fleet turn-over estimate than EPA's end of 2012 calendar year national estimate of 71.4% ORVR penetration in the national gasoline fueled motor vehicle fleet.

⁶ *Ibid.* In 2012, 85% of gasoline dispensed in Connecticut was dispensed to ORVR-equipped vehicles. This is much more accelerated than EPA's end of 2012 calendar year national estimate of 77.7% of fuel dispensed to ORVR-equipped vehicles.

expected to avoid emissions increases that would have resulted from the incompatibility of some Stage II systems with ORVR controls.

With respect to Stage I vapor recovery requirements, Connecticut's adopted regulation RCSA section 22a-174-30a is more stringent than the previously approved version of the rule,⁷ thus meeting the CAA section 110(l) anti-back sliding requirements. As noted above, the revised rule requires upgrades of P/V vent valves to a CARB-approved EVR P/V vent valve for all P/V vent valves being replaced after July 1, 2015. Connecticut's adopted RCSA section 22a-174-30a also meets the CAA section 110(l) requirements because of the increased frequency of Stage I vapor control equipment testing at GDFs.

EPA has reviewed Connecticut's newly adopted RCSA section 22a-174-30a, "*Stage I Vapor Recovery*," and we have determined that it adequately incorporates the necessary Stage I Vapor Recovery program requirements for GDFs that were previously contained in the, now repealed, RCSA section 22a-174-30 (see 71 FR 51761; August 31, 2006), as well as those Stage I vapor recovery requirements for GDFs that were previously contained within RCSA subsections 22a-174-20(b)(6) through (b)(9).

Connecticut's September 14, 2015 SIP submittal also includes revisions to section 22a-174-20. EPA initially approved Connecticut's RCSA section 22a-174-20 on May 31, 1972 (see 37 FR 23085) and most recently approved revisions to RCSA section 22a-174-20 on November 3, 2015 (see 80 FR 67642). EPA has reviewed Connecticut's revised RCSA sections 22a-174-20(a), 22a-174-20(b)(1) through 22a-174-20(b)(16), and 22a-174-20(ee) and has found that they are at least as stringent as the previously SIP-approved version of the regulation. The following Connecticut RCSA sections are the most significant changes from what was previously approved into the Connecticut SIP:

1. Subsection 22a-174-20(a)(7) was revised to clarify the requirements for the external surfaces of aboveground storage tanks containing VOCs, thus strengthening the subsection previously approved into the Connecticut SIP;

2. Subsections 22a-174-20(b)(6) through (b)(9), related to Stage I vapor recovery program requirements for gasoline dispensing facilities, were

⁷ EPA's most recent approval of RCSA section 22a-174-30 was on August 31, 2006 (see 71 FR 51761). As noted in this proposed rulemaking, Connecticut's Stage I vapor recovery requirements are now found in the adopted RCSA section 22a-174-30a, effective July 8, 2015.

removed from the amended 22a–174–20, since those provisions were moved into the new RCSA section 22a–174–30a;

3. Subsections 22a–174–20(b)(10) through 22a–174–20(b)(16) were revised to clarify and strengthen the Connecticut Stage I vapor recovery program requirements for fuel tank trucks;⁸ and

4. Subsection 22a–174–20(ee)(2) was revised to appropriately cite the newly adopted RCSA section 22a–174–30a where reference was previously made to, the now repealed, RCSA section 22a–174–30.

The above revisions are all reasonable and meet the Clean Air Act's section 110(l) anti-back sliding requirements because they are more stringent than the versions of the regulations previously approved into the Connecticut SIP. Therefore, EPA is proposing to approve the revised RCSA section 22a–174–20(a), the revised RCSA sections 22a–174–20(b)(1) through 22a–174–20(b)(16), and the revised RCSA section 22a–174–20(ee) into the Connecticut SIP.

In addition, Connecticut's September 2015 SIP submittal includes revised RCSA 22a–174–32(b), relating to the applicability of Reasonably Available Control Technology (RACT) requirements for volatile organic compounds. EPA initially approved Connecticut's RCSA section 22a–174–32 on March 10, 1999 (see 64 FR 12024) and subsequently approved revisions to this rule, with the most recently approved revisions to RCSA section 22a–174–32 on October 24, 2005 (see 70 FR 61384). The amended subsection 22a–174–32(b)(3)(E)(ii) was revised to appropriately cite the newly adopted RCSA section 22a–174–30a where reference was previously made to, the now repealed, RCSA section 22a–174–30. Therefore, EPA is proposing to approve revised RCSA section 22a–174–32(b) into the Connecticut SIP.

⁸ The revisions of subsections 22a–174–20(b)(10) through (b)(16) clarify and strengthen the Connecticut Stage I vapor recovery program requirements for fuel tank trucks by adding requirements such as: Requiring all vapor return hoses, couplers and adapters used in gasoline delivery to be vapor-tight; requiring fuel tank trucks to dispense gasoline to a stationary storage tank having an approved control system in a manner that does not interfere with the collection efficiency of the control system; and requiring fuel tank trucks to not transfer or allow the transfer of gasoline from a delivery vehicle to a dispensing facility stationary storage tank if there are leaks in pressure/vacuum relief valves or hatch covers of the delivery vehicle, in the truck tanks or in associated vapor and liquid lines.

IV. Proposed Action

EPA is proposing to approve Connecticut's September 14, 2015 SIP revision. Specifically, EPA is proposing to approve, and incorporate into the Connecticut SIP, the following regulations and statute: Newly adopted RCSA section 22a–174–30a; revised RCSA subsection 22a–174–20(a); revised RCSA subsections 22a–174–20(b)(1) through (b)(16); revised RCSA subsection 22a–174–20(ee), and revised RCSA subsection 22a–174–32(b); as well as Public Act No. 13–120. EPA is also proposing to approve Connecticut's request to withdraw RCSA section 22a–174–30 from the Connecticut SIP because, as described earlier, it has been replaced with RCSA section 22a–174–30a, which is more stringent. EPA is proposing to approve this SIP revision because it meets all applicable requirements of the CAA and EPA guidance, and it will not interfere with any applicable requirement concerning attainment or reasonable further progress towards attainment of any NAAQS, or with any other applicable requirement of the Clean Air Act.

Connecticut's September 14, 2015 SIP revision also satisfies the "comparable measures" requirement of CAA section 184(b)(2), because as stated in EPA's Guidance Document, "the comparable measures requirement is satisfied if phasing out a Stage II control program in a particular area is estimated to have no, or a *de minimis*, incremental loss of area-wide emissions control." As noted above, Connecticut's SIP revision meets, and as of the year 2015 goes beyond, the *de minimis* criteria outlined in EPA's Guidance Document. In addition, since the resulting temporary emissions increase from the removal of Stage II controls prior to the year 2015 were *de minimis*, the anti-back sliding requirements of CAA section 110(l) have also been satisfied. As noted in Connecticut's September 14, 2015 submission, these revisions to Connecticut's SIP are approvable under CAA section 110(l) because any VOC emissions increase that may have occurred in 2013 or 2014 were too small to interfere with attainment and reasonable further progress towards attainment of the ozone NAAQS. Connecticut's submission also stated, and demonstrated, that continuing a Stage II vapor recovery program from 2015 and beyond would have resulted in an *increase in refueling emissions* due to incompatibility excess emissions. Preventing an increase in refueling emissions is consistent with the non-interference requirements of the CAA in section 110(l).

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Connecticut's regulations and statute cited in Section IV. of this proposed rulemaking. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov> and at the appropriate EPA.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

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

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

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 16, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017-07147 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0705; FRL-9960-80-Region 5]

Air Plan Approval; Michigan; Transportation Conformity Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision submitted by the State of Michigan on October 3, 2016. The purpose of this revision is to establish

transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0705 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, leslie.michael@epa.gov.

SUPPLEMENTARY INFORMATION: In the Rules section of this **Federal Register**, EPA is approving Michigan's state implementation plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this

proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: March 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017-07030 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2017-0044; FRL-9961-00-Region 2]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the New Jersey Department of Environmental Protection. The SIP revision consists of the following: 2011 calendar year ozone precursor emission inventories for volatile organic compounds, oxides of nitrogen and carbon monoxide for the Northern New Jersey-New York-Connecticut area classified as Moderate ozone nonattainment for the 2008 8-hour ozone standard, and Southern New Jersey-Philadelphia ozone nonattainment area classified as Marginal ozone nonattainment for the 2008 8-hour ozone standard. In addition, the SIP revision also consists of the 2011 calendar year statewide periodic emissions inventory for particulate matter with an aerodynamic diameter less than or equal to 2.5 microns (PM_{2.5}) and the associated PM_{2.5} and/or Regional Haze precursors. The pollutants included in this inventory include volatile organic compounds, oxides of nitrogen, PM_{2.5}, particulate matter with an aerodynamic diameter less than or equal to 10 microns, ammonia and sulfur dioxide.

Emission inventories are needed to develop and assess new control strategies that the states may use in attainment demonstration SIPs for the new National Ambient Air Quality Standards for ozone and PM_{2.5}. The inventory may also serve as part of statewide inventories for purposes of regional modeling in ozone and Regional Haze transport areas. The inventory plays an important role in modeling demonstrations for areas classified as nonattainment for ozone, carbon monoxide and PM_{2.5}.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2017-0044, at <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Raymond Forde forde.raymond@epa.gov for general, point and nonpoint or area source inventory questions, and Matthew Laurita laurita.matthew@epa.gov for mobile source inventory related questions at the U.S. Environmental Protection Agency, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866, telephone number (212) 637-4249, fax number (212) 637-3901.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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- II. What are the criteria for approving the Periodic Inventory?
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I. Background—What is the Periodic Emissions Inventory?

Section 182(a)(3) and 172(c)(3) of the Clean Air Act requires the periodic submission of emissions inventories for the SIP planning process to address the pollutants for the ozone, particulate matter with an aerodynamic diameter less than or equal to 2.5 microns (PM_{2.5}) and carbon monoxide (CO) National Ambient Air Quality Standards. Identifying the calendar year gives certainty to states that require submission of the ozone, PM_{2.5} and CO emission inventories periodically. These requirements allow the EPA, based on the states’ progress in reducing emissions, to periodically reassess its policies and air quality standards and revise them as necessary. Most important, the ozone, PM_{2.5} and CO inventories will be used to develop and assess new control strategies that the states may use in attainment demonstration SIPs for the new National Ambient Air Quality Standards for ozone and PM_{2.5}. The inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The inventory plays an important role in modeling demonstrations for areas classified as nonattainment and outside transport regions. In addition, 40 CFR 51.308(d)(4)(v) of EPA’s Regional Haze Rule (RHR) requires the establishment of a statewide emissions inventory of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I area.

New Jersey has areas that are classified as nonattainment for the 2008 8-hour ozone standard. See 77 FR 30088 (May 21, 2012) for the Southern New Jersey-Philadelphia area classified as Marginal ozone nonattainment, and 81 FR 26697 (May 4, 2016) for the Northern New Jersey-New York-Connecticut area classified as Moderate ozone nonattainment. Therefore, an ozone emissions inventory is needed for these areas for air quality program planning purposes. For Regional Haze, New Jersey has a Class I area within its borders: Brigantine Wilderness Area (Brigantine). Emissions from New Jersey’s sources were also found to impact visibility at several other Class I areas: Acadia National Park and the Moosehorn Wilderness Area in Maine, the Great Gulf Wilderness Area and Presidential Range/Dry River Wilderness Area in New Hampshire,

and the Lye Brook Wilderness Area in Vermont. See 76 FR 49711 (August 11, 2011). Therefore, an emissions inventory is needed for the Regional Haze air quality planning program effort.

The pollutants inventoried by New Jersey include volatile organic compounds (VOC), oxides of nitrogen (NO_x) and CO summertime daily and annual emissions for the ozone areas; and VOC, NO_x, PM_{2.5}, particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀), ammonia (NH₃) and sulfur dioxide (SO₂) annual emissions for the PM_{2.5} and/or Regional Haze areas. For the reasons stated above, ideally EPA would therefore emphasize the importance and benefits of developing a comprehensive, current, and accurate ozone and PM_{2.5}/Regional Haze emissions inventory (similar to the 1990 base year inventory effort). In this case, the 2011 calendar year has been selected as the inventory that will be used for planning purposes for ozone and PM_{2.5}/Regional Haze areas.

II. What are the criteria for approving the Periodic Inventory?

On June 11, 2015, New Jersey submitted the 2011 ozone emissions inventory for the Northern New Jersey-New York-Connecticut and Southern New Jersey-Philadelphia ozone nonattainment areas and the 2011 emissions inventory for the PM_{2.5}/Regional Haze areas and requested that EPA approve the emissions inventory SIP revision. This section describes EPA’s rationale for proposing to approve the emissions inventory SIP revision. A more detailed discussion of the EPA’s review and proposed action is found in the technical support document (TSD) available in the Docket for this action, and by contacting the individuals in the **FOR FURTHER INFORMATION CONTACT** section.

There are specific components of an acceptable emission inventory. The emission inventory must meet certain minimum requirements for reporting each source category. Specifically, the source requirements are detailed below.

The review process, which is described in the accompanying TSD, is used to determine that all components of the base year inventory are present. This review also evaluates the level of supporting documentation provided by the state, assesses whether the emissions were developed according to current EPA guidance, and evaluates the quality of the data.

The review process is outlined here and consists of eight elements that the inventory must include. For an emissions inventory to be acceptable, it

must pass all of the following acceptance criteria:

1. Evidence that the inventory was quality assured by the state and its implementation documented;
2. The point source inventory was complete;
3. Point source emissions were prepared or calculated according to the current EPA guidance;
4. The area source inventory was complete;
5. The area source emissions were prepared or calculated according to the current EPA guidance;
6. Non-road mobile emissions were prepared according to the current EPA guidance for all of the source categories;
7. The method (e.g., Highway Performance Monitoring System or a network transportation planning model) used to develop vehicle miles travelled (VMT) estimates follows the EPA guidance; and,
8. On-road mobile emissions were prepared according to the current EPA guidance.

Based on the EPA's review, New Jersey satisfies all of the EPA's requirements for purposes of providing a comprehensive, accurate, and current inventory of actual emissions for the ozone nonattainment and PM_{2.5}/Regional Haze areas. A summary of the EPA's review is given below:

1. The Quality Assurance (QA) plan was implemented for all portions of the

inventory. The QA plan included a QA/Quality control (QC) program for assessing data completeness and standard range checking. Critical data elements relative to the inventory sources were assessed for completeness. QA checks were performed relative to data collection and analysis, and double counting of emissions from point, area and mobile sources. QA/QC checks were conducted to ensure accuracy of units, unit conversions, transposition of figures, and calculations. The inventory is well documented. New Jersey provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New Jersey identified the sources of data used in developing the inventory;

2. The point source emissions are complete and in accordance with the EPA guidance;
3. The point source emissions were prepared/calculated in accordance with the EPA guidance;
4. The area source emissions are complete and in accordance with the EPA guidance;
5. Area source emissions were prepared/calculated in accordance with the EPA guidance;
6. Emission estimates for the non-road mobile source categories are correctly based on the latest non-road mobile model or other appropriate guidance and prepared in accordance with the EPA guidance;

7. The method used to develop VMT estimates is in accordance with the EPA guidance and was adequately described and documented in the inventory report; and,

8. The latest Motor Vehicle Emission Simulator (MOVES) model was used in accordance with the EPA's guidance.

New Jersey's 2011 ozone and PM_{2.5}/Regional Haze emission inventories have been developed in accordance with EPA guidance. Therefore, EPA is proposing to approve the emission inventories. A more detailed discussion of how the emission inventory was reviewed and the results of the review are presented in the TSD. Detailed emission inventory development procedures can be found in the following document: *Emission Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulation*, dated August 2005; *Using MOVES to Prepare Emission Inventories in State Implementation Plans and Transportation Conformity: Technical Guidance for MOVES2010, 2010a and 2010b*, April 2012.

Tables A–H below show the 2011 VOC, NO_x and CO summertime daily and annual emission inventories for the ozone nonattainment areas. Tables F, G and I–L, show the VOC, NO_x, PM_{2.5}, PM₁₀, SO₂, and NH₃ annual emissions for the PM_{2.5}/Regional Haze areas.

TABLE A—NEW JERSEY PORTION OF THE NORTHERN NEW JERSEY OZONE NONATTAINMENT AREA

County	VOC tons per summer day				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Bergen	1.46	25.45	11.17	14.41	52.49
Essex	2.65	21.95	6.48	6.43	37.51
Hudson	3.11	15.87	3.82	3.96	26.76
Hunterdon	0.16	4.37	2.04	3.09	9.66
Middlesex	16.86	25.45	9.03	9.19	60.53
Monmouth	0.43	19.33	7.79	9.6	37.15
Morris	0.58	15.94	6.22	9.08	31.82
Passaic	0.9	14.55	4.71	5.07	25.23
Somerset	0.96	10.52	3.87	6.21	21.56
Sussex	0.14	4.52	1.93	4.07	10.66
Union	3.7	17.15	5.99	5.96	32.8
Warren	0.41	4.04	1.6	2.32	8.37
Total in Northern NAA Area	31.36	179.14	64.65	79.39	354.54

TABLE B—NEW JERSEY PORTION OF THE NORTHERN NEW JERSEY OZONE NONATTAINMENT AREA

County	NO _x tons per summer day				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Bergen	3.64	3.48	27.43	14.54	49.09
Essex	12.07	2.81	15.74	15.28	45.9
Hudson	16.98	2.07	8.4	14.29	41.74

TABLE B—NEW JERSEY PORTION OF THE NORTHERN NEW JERSEY OZONE NONATTAINMENT AREA—Continued

County	NO _x tons per summer day				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Hunterdon	6.23	0.49	7	3.52	17.24
Middlesex	19.08	3.03	23.95	12.65	58.71
Monmouth	0.58	2.15	14.64	11.54	28.91
Morris	0.98	2.2	15.86	7.27	26.31
Passaic	0.27	1.62	9.55	4.89	16.33
Somerset	1.45	1.36	10.8	5.85	19.46
Sussex	0.15	0.54	3.12	2.19	6
Union	9.01	1.91	16.01	11.77	38.7
Warren	1.78	0.41	6.09	1.56	9.84
Total in Northern NAA Area	72.22	22.07	158.59	105.35	358.23

TABLE C—NEW JERSEY PORTION OF THE NORTHERN NEW JERSEY OZONE NONATTAINMENT AREA

County	VOC tons per summer day				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	0.16	9.12	3.73	8.04	21.05
Burlington	0.92	14.32	6.52	7.48	29.24
Camden	0.74	14.27	6.53	5.12	26.66
Cape May	0.26	3.71	1.5	10.4	15.87
Cumberland	0.33	7.29	1.68	2.9	12.2
Gloucester	4.29	16.12	3.86	4.54	28.81
Mercer	0.54	11.32	5.06	4.54	21.46
Ocean	0.31	15.9	6.46	14.29	36.96
Salem	0.78	3.09	1.13	1.84	6.84
Total in Southern NAA Area	8.33	95.14	36.47	59.15	199.09

TABLE D—NEW JERSEY PORTION OF THE NORTHERN NEW JERSEY OZONE NONATTAINMENT AREA

County	NO _x tons per summer day				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	0.95	1.05	14.2	5.91	22.11
Burlington	8.92	1.79	17.78	8.79	37.28
Camden	1.53	1.79	16.89	6.84	27.05
Cape May	13.77	0.37	5.66	5.88	25.68
Cumberland	4.57	0.57	5.07	4.4	14.61
Gloucester	6.83	0.93	10.57	7.21	25.54
Mercer	6.49	1.64	14.2	5.62	27.95
Ocean	3.15	1.59	11.41	8.62	24.77
Salem	10.36	0.25	5.89	1.61	18.11
Total in Southern NAA Area	56.57	9.98	101.67	54.88	223.1

TABLE E—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	CO tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	0.92	1.91	47.16	47.81	97.80
Bergen	1.49	3.47	128.03	198.37	331.36
Burlington	2.67	6.88	68.9	79.73	158.18
Camden	0.47	3.17	64.63	62.04	130.31
Cape May	1.14	0.66	18.15	45.18	65.13
Cumberland	2.25	1.42	15.97	20.16	39.80
Essex	12.05	2.96	70.99	84.87	170.87

TABLE E—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR—Continued

County	CO tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Gloucester	2.14	1.34	41.11	51.26	95.85
Hudson	6.64	2.21	38.46	41.16	88.47
Hunterdon	2.18	1	22.08	37.27	62.53
Mercer	1.22	2.2	52.97	58.14	114.53
Middlesex	22.29	3.59	108.77	132.73	267.38
Monmouth	0.8	2.45	83.9	114.31	201.46
Morris	0.42	2.28	72.86	121.29	196.85
Ocean	2.48	3.95	63.68	88.62	158.73
Passaic	0.17	1.74	52.36	62.2	116.47
Salem	3.08	0.6	15.16	11.73	30.57
Somerset	0.79	1.46	42.25	90.37	134.87
Sussex	0.4	0.85	17.85	28.7	47.80
Union	2.85	2.05	67.43	81.39	153.72
Warren	0.74	1.04	16.55	19.42	37.75
Total in State	67.20	47.23	1,109.26	1476.75	2,700.44

TABLE F—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	VOC tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	58	3,437	1,278	2,472	7,245
Bergen	321	8,408	4,512	4,209	17,450
Burlington	226	4,995	2,382	2,174	9,777
Camden	218	5,134	2,349	1,484	9,185
Cape May	16	1,397	505	3,142	5,060
Cumberland	64	2,627	621	928	4,240
Essex	483	7,341	2,686	1,982	12,492
Gloucester	1,008	5,261	1,424	1,308	9,001
Hudson	722	5,504	1,585	1,244	9,055
Hunterdon	31	1,463	854	876	3,224
Mercer	126	4,343	1,877	1,286	7,632
Middlesex	1,891	8,539	3,711	2,617	16,758
Monmouth	117	6,442	3,241	2,790	12,590
Morris	133	5,257	2,561	2,570	10,521
Ocean	68	5,576	2,708	4,507	12,859
Passaic	113	4,708	1,952	1,488	8,261
Salem	197	1,036	414	565	2,212
Somerset	236	3,533	1,589	1,701	7,059
Sussex	48	1,517	835	1,197	3,597
Union	1,143	5,666	2,450	1,723	10,982
Warren	102	1,541	672	673	2,988
Total in State	7,320	93,726	40,206	40,938	182,190

TABLE G—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	NO _x tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	110	807	3,926	1,909	6,752
Bergen	714	2,570	9,852	4,539	17,675
Burlington	266	1,309	5,952	2,765	10,292
Camden	433	1,408	5,463	2,216	9,520
Cape May	600	288	1,500	1,988	4,376
Cumberland	721	437	1,418	1,460	4,036
Essex	1,470	2,107	5,934	5,138	14,649
Gloucester	1,765	732	3,618	2,364	8,479
Hudson	1,087	1,605	3,152	4,731	10,575
Hunterdon	181	366	2,663	1,026	4,236
Mercer	634	1,194	4,661	1,593	8,082

TABLE G—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR—Continued

County	NO _x tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Middlesex	1,647	2,217	9,045	3,826	16,735
Monmouth	151	1,665	5,570	3,586	10,972
Morris	122	1,556	6,046	2,160	9,884
Ocean	252	1,413	4,430	2,778	8,873
Passaic	48	1,210	3,566	1,500	6,324
Salem	1,540	182	1,952	476	4,150
Somerset	168	969	4,102	1,721	6,960
Sussex	39	395	1,203	634	2,271
Union	2,532	1,405	5,984	3,979	13,900
Warren	314	322	2,317	443	3,396
Total in State	14,793	24,157	92,356	50,834	182,140

TABLE H—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	CO tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	179	4,493	13,740	13,553	31,965
Bergen	278	4,861	53,500	53,631	112,270
Burlington	356	6,734	27,653	21,635	56,378
Camden	140	6,243	23,922	16,981	47,286
Cape May	61	1,607	6,039	13,250	20,957
Cumberland	234	3,198	6,729	5,989	16,150
Essex	630	4,616	32,647	25,006	62,899
Gloucester	510	2,436	16,487	13,377	32,810
Hudson	334	4,083	18,606	12,513	35,536
Hunterdon	50	1,209	9,367	9,523	20,149
Mercer	183	5,374	21,211	15,090	41,858
Middlesex	1,753	4,707	45,777	35,120	87,357
Monmouth	239	4,351	36,065	30,219	70,874
Morris	84	3,194	31,289	31,670	66,237
Ocean	534	7,500	26,667	26,043	60,744
Passaic	32	2,343	21,629	17,169	41,173
Salem	554	774	4,001	3,378	8,707
Somerset	104	1,976	17,650	22,599	42,329
Sussex	74	1,216	7,745	8,038	17,073
Union	576	3,318	27,597	21,827	53,318
Warren	150	2,110	7,362	5,369	14,991
Total in State	7,055	76,341	455,683	401,977	941,056

TABLE I—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	PM _{2.5} tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	13	694	144	133	984
Bergen	143	992	416	362	1,913
Burlington	39	1,166	230	176	1,611
Camden	41	976	211	144	1,372
Cape May	139	307	52	154	652
Cumberland	200	542	52	82	876
Essex	185	898	231	227	1,541
Gloucester	330	542	138	142	1,152
Hudson	100	765	127	239	1,231
Hunterdon	16	319	98	87	520
Mercer	102	856	189	152	1,299
Middlesex	411	1,010	356	305	2,082
Monmouth	37	972	194	271	1,474
Morris	18	641	221	209	1,089
Ocean	45	1,230	155	214	1,644

TABLE I—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR—Continued

County	PM _{2.5} tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Passaic	2	499	143	124	768
Salem	219	199	80	36	534
Somerset	18	428	152	160	758
Sussex	13	300	44	70	427
Union	600	688	240	236	1,764
Warren	39	398	83	45	565
Total in State	2,710	14,420	3,557	3,567	24,254

TABLE J—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	PM ₁₀ tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	22	929	189	140	1,280
Bergen	152	1,328	647	381	2,508
Burlington	78	1,573	352	185	2,188
Camden	571	1,111	325	152	2,159
Cape May	156	586	69	164	975
Cumberland	226	1,055	70	86	1,437
Essex	191	1,158	339	236	1,924
Gloucester	332	1,109	210	149	1,801
Hudson	103	965	189	250	1,507
Hunterdon	16	829	137	92	1,074
Mercer	113	1,091	291	159	1,654
Middlesex	486	1,585	522	321	2,913
Monmouth	42	1,763	321	286	2,412
Morris	47	935	330	221	1,533
Ocean	50	2,023	260	226	2,559
Passaic	3	633	219	130	985
Salem	241	436	98	39	814
Somerset	40	705	226	170	1,140
Sussex	23	599	75	75	772
Union	667	926	349	248	2,191
Warren	53	733	111	47	944
Total in State	3,611	22,072	5,328	3,757	34,768

TABLE K—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	SO ₂ tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	107	276	29	61	473
Bergen	67	503	103	50	723
Burlington	87	318	55	143	603
Camden	48	299	50	219	616
Cape May	1,295	89	10	40	1,434
Cumberland	348	287	9	31	675
Essex	248	498	57	386	1,189
Gloucester	742	206	33	391	1,372
Hudson	1,083	300	28	435	1,846
Hunterdon	3	304	21	6	334
Mercer	624	280	43	10	957
Middlesex	235	406	88	73	802
Monmouth	31	334	71	264	700
Morris	4	579	62	77	722
Ocean	26	374	53	42	495
Passaic	13	257	37	5	312
Salem	1,256	106	10	8	1,380
Somerset	12	189	38	9	248
Sussex	11	474	14	3	502

TABLE K—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR—Continued

County	SO ₂ tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Union	123	332	54	577	1,086
Warren	52	259	16	3	330
Total in State	6,415	6,669	879	2,836	16,799

TABLE L—2011 NEW JERSEY STATEWIDE EMISSIONS INVENTORY BY COUNTY AND SOURCE SECTOR

County	NH ₃ tons per year				
	Point sources	Area sources	Onroad sources	Nonroad sources	Total anthropogenic
Atlantic	14	194	90	1.70	299.70
Bergen	372	380	282	4.81	1,038.81
Burlington	39	471	141	2.15	653.15
Camden	20	246	127	1.66	394.66
Cape May	3	75	31	1.80	110.80
Cumberland	30	404	26	0.88	460.88
Essex	41	322	170	2.43	535.43
Gloucester	16	324	86	1.30	427.30
Hudson	26	230	80	2.10	338.10
Hunterdon	2	417	61	1.02	481.02
Mercer	10	216	108	1.92	335.92
Middlesex	162	370	262	3.90	797.90
Monmouth	47	616	213	3.45	879.45
Morris	3	230	185	2.78	420.78
Ocean	41	209	155	3.29	408.29
Passaic	1	182	105	1.75	289.75
Salem	59	644	29	0.41	732.41
Somerset	2	228	111	1.99	342.99
Sussex	0	321	38	0.89	359.89
Union	127	226	161	1.89	515.89
Warren	6	694	46	0.53	746.53
Total in State	1,021	6,997	2,506	42.66	10,569.65

III. What action is the EPA proposing to take?

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

Therefore, EPA is proposing to approve a revision to the New Jersey SIP which pertains to the following: 2011 calendar year summer season daily and annual ozone precursor emissions emission inventories for VOC, NO_x and CO for the Northern New Jersey-New

York-Connecticut and the Southern New Jersey-Philadelphia ozone nonattainment areas. In addition, the EPA is proposing to approve the 2011 calendar year PM_{2.5}/Regional Haze emissions inventory that was developed statewide for New Jersey. The pollutants included in the inventory are annual emissions for VOC, NO_x, PM_{2.5}, PM₁₀, NH₃ and SO₂. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region 2 Office by the method discussed in the **ADDRESSES** section of this action.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet

the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 16, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

[FR Doc. 2017-07137 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2013-0772; FRL-9960-93-Region 4]

Air Plan Approval; North Carolina; Motor Vehicle Emissions Control Program; Correcting Amendment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed action, taken under the authority of the Clean Air Act, would correct an error in previously promulgated rules approving certain elements of the North Carolina state implementation plan (SIP). This error relates to the North Carolina SIP's Motor Vehicle Emissions Control Standard rules and the correction removes a provision of the State's otherwise federally-enforceable regulations that could result in infringement upon the sovereign immunity of Federal facilities. The intended effect is to ensure that the North Carolina SIP is correctly identified in the applicable part of the Code of Federal Regulations and to eliminate the possibility of such infringement.

DATES: Written comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2013-0772 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via phone at (404) 562-9992 or electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal

because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: March 15, 2016.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017-07034 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0048; FRL-9960-53-Region 4]

Air Plan Approval; Kentucky; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the portion of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet's Division of Air Quality on August 26, 2016, regarding the nonattainment new source review (NNSR) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS) for the Kentucky portion of the Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area (hereinafter referred to as the "Cincinnati-Hamilton, OH-KY-IN Area" or "Area"). The Area consists of Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; portions of Boone, Campbell, Kenton Counties in Kentucky; and a portion of Dearborn County in Indiana. This action is being taken pursuant to the Clean Air Act and its implementing regulations.

DATES: Written comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-

OAR-2017-0048 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Andres Febres of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Febres can be reached via telephone at (404) 562-8966 or via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

In the Final rules section of this **Federal Register**, EPA is approving the portion of Kentucky's August 26, 2016, SIP revision addressing the NNSR requirements for the 2008 8-hour ozone NAAQS for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area 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 and incorporated herein by reference. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all adverse comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: March 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017-07027 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0292; FRL-9960-58-Region 4]

Air Plan Approval; Georgia; Inspection and Maintenance Program Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division on August 6, 2014, pertaining to rule changes for the Georgia Inspection and Maintenance program. EPA is approving this SIP revision as modified by GA EPD through a December 1, 2016, partial withdrawal letter. EPA is proposing this action because the State has demonstrated that these portions of the SIP revision are consistent with the Clean Air Act.

DATES: Written comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0292 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Wong can be reached via telephone at (404) 562-8726 or via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's August 6, 2014 SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. As discussed in the direct final rule, GA EPD submitted a partial withdrawal letter to EPA on December 1, 2016, withdrawing the proposed revision to Georgia Rule 391-3-20-.06, "On Road Testing," from the SIP revision. Therefore, that rule is no longer part of the SIP revision that EPA is proposing to approve. A detailed rationale for the approval is set forth in the direct final rule and incorporated herein by reference. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all adverse comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: March 15, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017-07033 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA-HQ-OPP-2017-0006; FRL-9959-61]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the

establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, 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:* 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>.

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305-7090; email address: RDFFRNotices@epa.gov. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code.

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).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

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

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities.

The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C.

346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

New Tolerances

1. *PP 6E8492.* (EPA-HQ-OPP-2016-0495). Interregional Research Project No. 4 (IR-4) Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201, W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180 for residues of prometryn in or on the raw agricultural commodity celtuce at 0.5 parts per million (ppm). Contact: RD.

2. *PP 6E8516.* (EPA-HQ-OPP-2016-0650). Interregional Research Project No. 4 (IR-4) Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201, W, Princeton, NJ 08540, requests to establish tolerance in 40 CFR 180.650 by establishing tolerances for residues of isoxaben N-[3-(1-ethyl-1-methylpropyl)-5-isoxazolyl]-2, 6-dimethoxybenzamide in or on the raw agricultural commodities apple at 0.01 parts per million (ppm), the bushberry subgroup 13-07B at 0.01 ppm, the fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13-07F at 0.01 ppm and the nut, tree, group 14-12 at 0.02 ppm. An acceptable analytical method is available for enforcement purposes. Contact: RD.

3. *PP 6E8534.* (EPA-HQ-OPP-2017-0032). Bayer CropScience, LP., 2 T.W. Alexander Drive, P.O. Box 12014, Research triangle Park, NC 27709, requests to establish an import tolerance in 40 CFR part 180 for residues of the

fungicide tebuconazole in or on ginseng, fresh at 0.15 parts per million (ppm); and ginseng, dried/red at 0.4 (ppm). An enforcement method for plant commodities has been validated on various commodities. It has undergone successful EPA validation and has been submitted for inclusion in PAM II. The animal method has also been approved as an adequate enforcement method. Contact: RD.

New Tolerance Exemptions

1. *PP IN-11002*. (EPA-HQ-OPP-2017-0012). Spring Trading Company, LLC., (203 Dogwood Trail, Magnolia, TX 77354) on behalf of Ingevity Corporation, 5255 Virginia Avenue, North Charleston, SC 29406, requests to establish an exemption from the requirement of a tolerance for residues of tall oil fatty acid (CAS Reg. No. 61790-12-3) when used as an inert ingredient in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910; application to animals under 40 CFR 180.930 and

application to food-contact surface sanitizing solutions under 40 CFR 180.940. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

2. *PP IN-11004*. (EPA-HQ-OPP-2016-0780). Clariant Corporation, 4000 Monroe Road, Charlotte, NC 28205, requests to establish exemptions from the requirement of a tolerance in 40 CFR 180.960 for residues of oxirane, 2-methyl, polymer with oxirane, hydrogen sulfate, ammonium salt (CAS Reg. No. 57608-14-7) and oxirane, 2-methyl, polymer with oxirane, hydrogen sulfate, potassium salt (CAS Reg. No. 1838191-48-2) having a minimum number average molecular weight in (amu) of 1,800 when used as inert ingredients in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

Amended Tolerances

PP 6E8516. (EPA-HQ-OPP-2016-0650). Interregional Research Project No. 4 (IR-4) Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201, W, Princeton, NJ 08540, requests to remove the tolerances in 40 CFR 180.650 for residues of isoxaben N-[3-(1-ethyl-1-methylpropyl)-5-isoxazolyl]-2, 6-dimethoxybenzamide in or on the raw agricultural commodities grape at 0.01 ppm; nut, tree, group 14 at 0.02 ppm; and pistachio at 0.02 ppm. An acceptable analytical method is available for enforcement purposes. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: March 7, 2017.

Hamaad Syed,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017-07128 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 5, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 10, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Food and Nutrition Service

Title: Food Distribution Program on Indian Reservations (FDPIR) Paraprofessional Nutrition Training Assessment for Indian Tribal Organizations (ITOs).

OMB Control Number: 0584-NEW.

Summary of Collection: The Food Distribution Division (FDD) at the Food and Nutrition Service is considering developing and delivering a paraprofessional nutrition training program for Food Distribution Program on Indian Reservation staff within Indian Tribal Organizations (ITOs). The objective of the FDPIR Paraprofessional Nutrition Training Assessment for Indian Tribal Organizations is to provide FNS with information of the best way to deliver the training to staff.

Need and Use of the Information:

This data collection will help FNS to assess interest in a paraprofessional training project, determine the nutrition training topics that are most valued by ITOs and FDPIR staff, determine the most effective and culturally relevant format for training; and, determine the motivational factors for staff that might influence their participation in nutrition training.

Description of Respondents: 23 (ITOs) at the State, Local or Tribal Government.

Number of Respondents: 99 Staff Members.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 81.80.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017-07144 Filed 4-7-17; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meeting Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the

National Agricultural Research, Extension, and Teaching Policy Act of 1977, and the Agricultural Act of 2014, the United States Department of Agriculture (USDA) announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: May 16-18, 2017. The public may file written comments before or up to June 1, 2017.

ADDRESSES: Hilton Crystal City at Washington Reagan National Airport, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

Written comments may be sent to: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 332A, Whitten Building, United States Department of Agriculture, STOP 0321, 1400 Independence Avenue SW., Washington, DC 20250-0321.

FOR FURTHER INFORMATION CONTACT:

Michele Esch, Executive Director/ Designated Federal Official, or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720-3684; fax: (202) 720-6199; or email: *nareee@ars.usda.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the meeting: To provide advice and recommendations on the top priorities and policies for food and agricultural research, education, extension, and economics. The main focus of this meeting will be on the review of the relevance and adequacy of the climate and energy needs programs of the USDA Research, Education, and Extension mission area. The Board will also receive updates and information pertinent to the research, education, and economics activities in USDA. A detailed agenda may be received from the contact person identified in this notice or at <https://nareeeab.ree.usda.gov/meetings/general-meetings>.

Tentative Agenda: On Tuesday, May 16, 2017, the meeting will be held from 12:00 noon EDT and end by 5:00 p.m. EDT.

On Wednesday, May 17, 2017, the Advisory Board will convene at 8:00 a.m.-5:00 p.m. EDT.

On Thursday, May 18, 2017, the Board will reconvene at 8:00 a.m. EDT and will adjourn by 12:00 p.m. (noon) EDT.

Public Participation: This meeting is open to the public and any interested individuals wishing to attend. Opportunity for public comment will be offered each day of the meeting. To attend the meeting and/or make oral statements regarding any items on the agenda, you must contact Michele Esch or Shirley Morgan-Jordan at 202-720-3684; email: nareee@ars.usda.gov at least 5 business days prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (or by close of business Thursday, June 1, 2017). All written statements must be sent to Michele Esch, Designated Federal Officer and Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, U.S. Department of Agriculture, Room 332A, Jamie L. Whitten Building, Mail Stop 0321, 1400 Independence Avenue SW., Washington, DC 20250-0321; or email: nareee@ars.usda.gov. All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Education, and Economics Advisory Board Office.

Done at Washington, DC this 24th day of March 2017.

Ann Bartuska,

Acting, Under Secretary, Research, Education, and Economics.

[FR Doc. 2017-07024 Filed 4-7-17; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2017-0018]

Southern Gardens Citrus Nursery, LLC; Notice of Intent To Prepare an Environmental Impact Statement for Permit for Release of Genetically Engineered Citrus *tristeza* virus

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are announcing to the public that the Animal and Plant Health Inspection Service (APHIS) intends to prepare an environmental impact

statement (EIS) evaluating the environmental impacts that may result from the potential approval of an application from Southern Gardens Citrus Nursery, LLC, seeking a permit for the environmental release of genetically engineered *Citrus tristeza virus* (CTV). The virus has been genetically engineered to express defensin proteins from spinach as an approach to manage citrus greening disease throughout the State of Florida. APHIS considers this genetically engineered CTV to be a biological control agent since it is a biological organism intended to help manage citrus greening disease. Issues to be addressed in the EIS include the potential environmental impacts to managed natural and non-agricultural lands, agricultural production systems, the physical environment, biological resources, human health, socioeconomics, federally listed threatened or endangered species, and cultural or historic resources. We are also requesting public comments to further delineate the scope of the alternatives and environmental impacts and issues to be included in this EIS.

DATES: We will consider all comments that we receive on or before May 10, 2017.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0018>.

- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS-2017-0018, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0018> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Alan Pearson, Chief, Plants, Pests, and Protectants Branch, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1238; (301) 851-3944, email: Alan.Pearson@aphis.usda.gov.

To obtain copies of the application, contact Ms. Cindy Eck at (301) 851-851-3882, email: cynthia.a.eck@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (PPA), as amended (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles." The regulations in § 340.2 contain a list of organisms considered to be regulated articles, including all members of groups containing plant viruses, and all other plant and insect viruses.

The regulations in § 340.4(a) provide that any person may submit an application for a permit for the introduction of a regulated article to the Animal and Plant Health Inspection Service (APHIS). Paragraph (b) of § 340.4 describes the form that an application for a permit for the environmental release of a regulated article must take and the information that must be included in the application. In addition, paragraph (b) states that applications must be submitted at least 120 days in advance of the proposed release into the environment in order to allow for APHIS review. However, the 120-day review period would be extended if preparation of an environmental impact statement is necessary.

On February 13, 2017, APHIS received a permit application from Southern Gardens Citrus Nursery, LLC (APHIS Permit Number 17-044-101r) for the environmental release of *Citrus tristeza virus* (CTV) genetically engineered to express defensin proteins from spinach as an approach to manage citrus greening disease. Citrus greening disease, also called huanglongbing, was first detected in the United States in 2005 in Florida, and has since become a devastating disease of citrus in Florida. There is no known cure for citrus greening disease.

The genetically engineered CTV expressing antimicrobial peptides to control citrus greening disease has been field tested in Hendry and Polk Counties, FL, since June 2010 under confined conditions that restrict the virus to the site of the field test. APHIS

has provided significant oversight of these confined field trials and has not detected any negative impacts on the environment, including threatened and endangered species. Permitted field trials are planned and in progress in a number of regions in Florida to determine the efficacy of expression of spinach defensins by CTV. The action proposed in the permit application under consideration is to commercialize the use of genetically engineered CTV as a biological means to manage citrus greening disease in Florida. The environmental impact statement (EIS) will evaluate the environmental impacts associated with this action throughout the State of Florida. Decisions on where the genetically engineered CTV would be deployed would be determined by Southern Gardens Citrus Nursery, LLC, in agreements with growers, and deployment would be monitored by APHIS. The genetically engineered CTV would be applied to citrus trees by grafting (*i.e.*, not by spraying the trees by ground or air).

Under the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental impacts of proposed major Federal actions that may significantly affect the quality of the human environment before those actions can be taken. In accordance with NEPA, regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), U.S. Department of Agriculture regulations implementing NEPA (7 CFR part 1b), and APHIS' NEPA Implementing Procedures (7 CFR part 372), APHIS has considered how to properly examine the potential environmental impacts of issuing permits for the introduction of genetically engineered regulated articles into the United States.

In reviewing Southern Gardens Citrus Nursery, LLC's permit application, APHIS has determined that the commercial release of genetically engineered CTV does not involve genetically engineering citrus trees, and that use of the genetically engineered CTV will have no impact on the genetics of the trees. However, APHIS has decided to prepare an EIS to better understand the potential for environmental impacts associated with the issuance of a permit. The EIS will examine the broad and cumulative environmental impacts of the requested permit, including potential impacts of the proposed action on the human environment and alternative courses of action. This notice identifies potential issues and alternatives that we will

study in the EIS and requests public comment to further delineate the issues and the scope of the alternatives. The State of Florida will be a cooperating agency for the preparation of the EIS.

Alternatives

The Federal action being considered is whether to approve the permit request from Southern Gardens Citrus Nursery, LLC. This notice identifies reasonable alternatives and potential issues that may be studied in the EIS. We are requesting public comments to further delineate the range of alternatives and environmental impacts and issues to be evaluated in the EIS for the permit application.

The EIS will consider a range of reasonable alternatives. APHIS is currently considering two alternatives: (1) Take no action, *i.e.*, APHIS would not approve the permit request, or (2) approve the permit request from Southern Gardens Citrus Nursery, LLC.

Environmental Issues for Consideration

We have also identified the following potential environmental issues for consideration in the EIS. We are requesting that the public provide information on the following questions during the comment period on this notice:

- Are there any new or greater plant pest or environmental risks or apparent benefits associated with the strategy of using genetically engineered CTV instead of the currently available approaches to manage citrus greening disease? If so, please explain.
- The EIS will focus on the development and use of genetic engineering to offer a novel pest control program. Are there any environmental risks that APHIS should consider in detail for CTV expressing spinach defensin?
- What are the potential risks of nontarget impacts associated with this technology?

Comments that identify other issues or alternatives that should be considered for examination in the EIS would be especially helpful. All comments received during the scoping period will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an opportunity to comment on it will be published in the **Federal Register**.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of April 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–07106 Filed 4–7–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request: Form FNS–583, Supplemental Nutrition Assistance Program Employment and Training Program Activity Report

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice invites the public and other public agencies to comment on a proposed information collection burden for the Supplemental Nutrition Assistance Program (SNAP), Employment and Training (E&T) Program, currently approved under OMB No. 0584–0339. This is an extension without revision of a currently approved collection. The burden estimate remains 21,889 hours.

DATES: Submit written comments on or before June 9, 2017.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information, including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other form of information technology.

Comments may be sent to Sasha Gersten-Paal, Acting Chief, Program Design Branch, Program Development Division, Supplemental Nutrition Assistance Program, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Sasha Gersten-Paal at 703–

305–2454 or via email to *Sasha.Gersten-Paal@fns.usda.gov*.

Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically. All written comments will be open for public inspection at the office of the Food and Nutrition Service located at 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday).

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Request for additional information or copies of this information collection should be directed to Sasha Gersten-Paal at (703) 305–2507.

SUPPLEMENTARY INFORMATION:

Title: Employment and Training Program Activity Report.

OMB Number: 0584–0339.

Expiration Date: June 30, 2014.

Type of Request: Extension without revision of a currently approved collection.

Abstract: 7 CFR 273.7(c)(9) requires State agencies to submit quarterly E&T Program Activity Reports containing monthly figures for participation in the program. FNS uses Form FNS–583, to collect participation data. The information collected on the FNS–583 report includes:

- On the first quarter report, the number of work registrants receiving

SNAP as of October 1 of the new fiscal year;

- On each quarterly report, by month, the number of new work registrants; the number of able-bodied adults without dependents (ABAWDs) applicants and recipients participating in qualifying components; the number of all other applicants and recipients (including ABAWDs involved in non-qualifying activities) participating in components; and the number of ABAWDs exempt under the State agency’s 15 percent exemption allowance;

- On the fourth quarter report, the total number of individuals who participated in each component, which is also sorted by ABAWD and non-ABAWD participants and the number of individuals who participated in the E&T Program during the fiscal year.

7 CFR 273.7(d)(1)(i)(D) provides that if a State agency will not expend all of the funds allocated to it for a fiscal year, FNS will reallocate unexpended funds to other State agencies during the fiscal year or the subsequent fiscal year as FNS considers appropriate and equitable. After FNS makes initial E&T allocations, State agencies may request more funds as needed. Typically FNS receives fourteen such requests per year.

The time it takes to prepare these requests is included in the burden. After receiving the State requests, FNS will reallocate unexpended funds as provided above. The following is the estimated burden for E&T reporting including the burden for State agencies to request additional funds.

Reporting

FNS–583 Report

Frequency: 4.

Affected Public: State Agency.

Number of Respondents: 53.

Number of Responses: 684. (Note this reflects multiple responses within the FNS–583 form; In aggregate, 53 State Agencies submit 1 form each quarter or 212 total responses per year.)

Estimated Time per Response:

31.9363 hours per State agency.

Estimated Total Annual Reporting Burden: 21,844.40 hours.

Requests for Additional Funds

Frequency: .2641.

Affected Public: State Agency.

Number of Respondents: 53.

Number of Responses: 14.

Estimated Time per Response: 1.00 hour per request.

Estimated Total Annual Reporting Burden: 14 hours.

Recordkeeping

FNS–583 Report

Number of Respondents: 53.

Number of Records: 212.

Number of Hours per Record: 0.137 hours.

Estimated Total Annual Recordkeeping Burden: 29.04 hours.

Requests for Additional Funds

Number of Respondents: 53.

Number of Records: 14.

Number of Hours per Record: 0.137 hours.

Estimated Total Annual Recordkeeping Burden: 1.92 hours.

TOTAL ANNUAL REPORTING AND RECORDKEEPING BURDEN

[Compiling and Reporting for the FNS–583 and Requests for More Funding]

[SNAP Employment and Training Program Activity Report]

Section of regulation	Title	Number of respondents	Reports filed annually	Total responses (C × D)	Estimated number of hours per response	Estimated total hours (C × D × F)
A	B	C	D	E	F	G
REPORTING						
7 CFR 273.7(c)(8)	Compile and report new work registrants on FNS–583.	53	4	212	90.94	19,278.28
7 CFR 273.24(g)	Compile and report 15 percent ABAWD exemptions on FNS–583.	12*	4	48	4.59	220.32
7 CFR 273.7(f)	Compile and report E&T activities (placements) on FNS–583.	53	4	212	10.10	2,142.20
7 CFR 273.7(C)(8)	Preparing FNS–583: States filing electronically. States filing manually	50 3	4 4	200 12	1.00 0.3	200 3.6
7 CFR 273.7(d)(1)(i)(F)	Preparing requests for more funds after initial allocation.	53	0.2641	14	1	14

TOTAL ANNUAL REPORTING AND RECORDKEEPING BURDEN—Continued
 [Compiling and Reporting for the FNS-583 and Requests for More Funding]
 [SNAP Employment and Training Program Activity Report]

Section of regulation	Title	Number of respondents	Reports filed annually	Total responses (C × D)	Estimated number of hours per response	Estimated total hours (C × D × F)
A	B	C	D	E	F	G
Total Reporting for FNS-583 and Additional Funds Requests.	.....	53	13.1698	698	31.32	21,858.40
RECORDKEEPING						
7 CFR 277.12	Recordkeeping burden for FNS-583.	53	4	212	0.137	29.04
7 CFR 277.12	Record-keeping burden for additional requests.	53	0.26415	14	0.137	1.92
Total Recordkeeping Burden for FNS 583 and Additional Funds Requests.	.....	53	4.26	226	0.137	30.96
SUMMARY						
	Total All Burdens	53	17.43	924	23.689	21,889.36

* There are 12 States without statewide waivers of the time-limit that will likely use 15 percent exemptions.

Dated: March 16, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017-07113 Filed 4-7-17; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs: Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department’s annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals and free milk for the period from July 1, 2017 through June 30, 2018. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Summer Food Service Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

DATES: Effective July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Jessica Saracino, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Suite 628, Alexandria, Virginia 22302, 703-305-1620.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice has been determined to be not significant and was not reviewed by the Office of Management and Budget in conformance with Executive Order 12866. The affected programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556, No. 10.558, and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR part 415).

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)),

and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR part 210), the Commodity School Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Summer Food Service Program (7 CFR part 225) and Child and Adult Care Food Program (7 CFR part 226) and the guidelines for free milk in the Special Milk Program for Children (7 CFR part 215).

These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals and free milk in accordance with applicable program rules.

Definition of Income

In accordance with the Department’s policy as provided in the Food and Nutrition Service publication Eligibility Manual for School Meals, “income,” as the term is used in this notice, continues to mean income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions, and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm

self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

"Income", as the term is used in this notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any statutory prohibition. Furthermore, the value of meals or milk to children shall

not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2017 through June 30, 2018. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2017 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

This notice displays only the annual Federal poverty guidelines issued by the Department of Health and Human Services because the monthly and weekly Federal poverty guidelines are not used to determine the Income Eligibility Guidelines. The chart details the free and reduced price eligibility

criteria for monthly income, income received twice monthly (24 payments per year); income received every two weeks (26 payments per year) and weekly income.

Income calculations are made based on the following formulas: Monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded upward to the next whole dollar.

The numbers reflected in this notice for a family of four in the 48 contiguous States, the District of Columbia, Guam and the territories represent an increase of 1.2 percent over last year's level for a family of the same size.

Authority: Section 9(b)(1)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A)).

BILLING CODE 3410-30-P

INCOME ELIGIBILITY GUIDELINES											
Effective from July 1, 2017 to June 30, 2018											
HOUSEHOLD SIZE	FEDERAL POVERTY GUIDELINES	REDUCED PRICE MEALS - 185 %					FREE MEALS - 130 %				
	ANNUAL	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY	ANNUAL	MONTHLY	TWICE PER MONTH	EVERY TWO WEEKS	WEEKLY
48 CONTIGUOUS STATES, DISTRICT OF COLUMBIA, GUAM, AND TERRITORIES											
1	12,060	22,311	1,860	930	859	430	15,678	1,307	654	603	302
2	16,240	30,044	2,504	1,252	1,156	578	21,112	1,760	880	812	406
3	20,420	37,777	3,149	1,575	1,453	727	26,546	2,213	1,107	1,021	511
4	24,600	45,510	3,793	1,897	1,751	876	31,980	2,665	1,333	1,230	615
5	28,780	53,243	4,437	2,219	2,048	1,024	37,414	3,118	1,559	1,439	720
6	32,960	60,976	5,082	2,541	2,346	1,173	42,848	3,571	1,786	1,648	824
7	37,140	68,709	5,726	2,863	2,643	1,322	48,282	4,024	2,012	1,857	929
8	41,320	76,442	6,371	3,186	2,941	1,471	53,716	4,477	2,239	2,066	1,033
For each add'l family member, add	4,180	7,733	645	323	298	149	5,434	453	227	209	105
ALASKA											
1	15,060	27,861	2,322	1,161	1,072	536	19,578	1,632	816	753	377
2	20,290	37,537	3,129	1,565	1,444	722	26,377	2,199	1,100	1,015	508
3	25,520	47,212	3,935	1,968	1,816	908	33,176	2,765	1,383	1,276	638
4	30,750	56,888	4,741	2,371	2,188	1,094	39,975	3,332	1,666	1,538	769
5	35,980	66,563	5,547	2,774	2,561	1,281	46,774	3,898	1,949	1,799	900
6	41,210	76,239	6,354	3,177	2,933	1,467	53,573	4,465	2,233	2,061	1,031
7	46,440	85,914	7,160	3,580	3,305	1,653	60,372	5,031	2,516	2,322	1,161
8	51,670	95,590	7,966	3,983	3,677	1,839	67,171	5,598	2,799	2,584	1,292
For each add'l family member, add	5,230	9,676	807	404	373	187	6,799	567	284	262	131
HAWAII											
1	13,860	25,641	2,137	1,069	987	494	18,018	1,502	751	693	347
2	18,670	34,540	2,879	1,440	1,329	665	24,271	2,023	1,012	934	467
3	23,480	43,438	3,620	1,810	1,671	836	30,524	2,544	1,272	1,174	587
4	28,290	52,337	4,362	2,181	2,013	1,007	36,777	3,065	1,533	1,415	708
5	33,100	61,235	5,103	2,552	2,356	1,178	43,030	3,586	1,793	1,655	828
6	37,910	70,134	5,845	2,923	2,698	1,349	49,283	4,107	2,054	1,896	948
7	42,720	79,032	6,586	3,293	3,040	1,520	55,536	4,628	2,314	2,136	1,068
8	47,530	87,931	7,328	3,664	3,382	1,691	61,789	5,150	2,575	2,377	1,189
For each add'l family member, add	4,810	8,899	742	371	343	172	6,253	522	261	241	121

Dated: March 28, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service, U.S. Department of Agriculture.

[FR Doc. 2017-07043 Filed 4-7-17; 8:45 am]

BILLING CODE 3410-30-C

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arkansas Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Monday, April 24, 2017, at 12:00 noon CST for the purpose of a discussion on civil rights topics affecting the state. **DATES:** The meeting will be held on Monday, April 24, 2017, at 12:00 noon. CST.

Public Call Information: Dial: 888-287-5530, Conference ID: 7878264.

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: 888-287-5530, conference ID: 7878264. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments;

the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at callen@usccr.gov. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Arkansas Advisory Committee link (<http://www.facadatabase.gov/committee/meetings.aspx?cid=236>). 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
Civil Rights Topics in Arkansas
Future Plans and Actions
Public Comment
Adjournment

Dated: April 4, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-07053 Filed 4-7-17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arkansas Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Monday, May 15, 2017, at 12:00 noon Central for the purpose of a discussion on civil rights topics affecting the state. **DATES:** The meeting will be held on Monday, May 15, 2017, at 12:00 noon CST.

Public Call Information: Dial: 888-554-1430, Conference ID: 8407123

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: 888-554-1430, conference ID: 8407123. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Carolyn Allen at callen@usccr.gov. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Arkansas Advisory Committee link (<http://www.facadatabase.gov/committee/meetings.aspx?cid=236>). 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
Civil Rights Topics in Arkansas
Future Plans and Actions

Public Comment
Adjournment

Dated: April 5, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-07122 Filed 4-7-17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS**Agenda and Notice of Public Meeting
of the Maryland Advisory Committee**

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Maryland Advisory Committee to the Commission will convene at 10:00 a.m. (EDT) on April 25, 2017 in the Auditorium, Earl C. Graves School of Business & Management, at Morgan State University located at 1700 E. Cold Spring Lane, Baltimore, MD, 21251. The purpose of the briefing meeting is to hear testimony on the impact of the recent Court of Appeals decision on bail policies. The Committee will also hear testimony on whether jurisdictions in Maryland are raising revenue through the use of fines and fees, including traffic tickets, other minor offenses, reimbursement fees for the costs of defense services, fine surcharges, court administrative fees, user fees to defray the costs of incarceration, and probation, parole or other supervision fees and whether these are disparately impacting people of color.

DATES: Tuesday, April 25, 2017, from 10:00 a.m. to 5:00 p.m. EDT.

ADDRESSES: Auditorium, Earl C. Graves School of Business & Management, at Morgan State University located at 1700 E. Cold Spring Lane, Baltimore, MD, 21251.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at ero@usccr.gov, or 202-376-7533

SUPPLEMENTARY INFORMATION: The meeting is free and open to the public. If other persons who plan to attend the meeting require accommodations, please contact Evelyn Bohor at ebohor@usccr.gov at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the

issue are also invited to submit written comments; the comments must be received in the regional office by Thursday, May 25, 2017. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376-7548, or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <http://facadatabase.gov/committee/meetings.aspx?cid=253> and clicking on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, www.usccr.gov, or to contact the Eastern Regional Office at the above phone number, email or street address.

Tentative Agenda

Monday, March 20, 2017

- I. Welcome and Introductions
- II. Briefing 9:15 a.m. to 6:00 p.m.
 - Panel One: Bail Reform
 - Panel Two: Bail Reform
 - Panel Three: Fines and Fees
 - Panel Four: Fines and Fees
- III. Open Session
- IV. Adjournment

Dated: April 4, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-07059 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[B-21-2017]

**Foreign-Trade Zone 74—Baltimore,
Maryland; Application for
Reorganization (Expansion of Service
Area) Under Alternative Site
Framework**

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Baltimore Development Corporation on behalf of the City of Baltimore, grantee of Foreign-Trade Zone 74, requesting authority to reorganize the zone to expand its service area under the alternative site framework (ASF)

adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on April 5, 2017.

FTZ 74 was approved by the FTZ Board on January 21, 1982 (Board Order 183, 47 FR 5737, February 8, 1982) and reorganized under the ASF on May 24, 2012 (Board Order 1831, 77 FR 32930, June 4, 2012). The zone currently has a service area that includes the City of Baltimore and the Counties of Anne Arundel, Baltimore, Cecil and Harford.

The applicant is now requesting authority to expand the service area of the zone to include Howard and Queen Anne Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The application indicates that the proposed expanded service area is adjacent to the Baltimore Customs and Border Protection Port of Entry.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 9, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 26, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via www.trade.gov/ftz. For further information, contact Kathleen Boyce at Kathleen.Boyce@trade.gov or (202) 482-1346.

Dated: April 5, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017-07103 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges In the Matter of: Sam Rafic Ghanem, 6714 Forsythia Street, Springfield, VA 22150

On August 12, 2015, in the U.S. District Court for the District of Maryland, Sam Rafic Ghanem (“Ghanem”), was convicted of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Ghanem willfully attempted to export and cause the exportation of firearms parts and accessories designated as defense articles under Category I of the United States Munitions List from the United States to Lebanon without having first obtained the required license or authorization from the U.S. Department of State, Directorate of Defense Trade Controls. Ghanem was sentenced 18 months in prison, three years of supervised release, a criminal fine of \$70,734.24, and a \$200 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (“EAA”), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial

of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Ghanem’s conviction for violating the AECA, and has provided notice and an opportunity for Ghanem to make a written submission to BIS, as provided in section 766.25 of the Regulations. Ghanem requested an extension of time to make a written submission to BIS, which was granted, but BIS did not receive a submission from Ghanem.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Ghanem’s export privileges under the Regulations for a period of 10 years from the date of Ghanem’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Ghanem had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered*:

First, from the date of this Order until August 12, 2025, Sam Rafic Ghanem, with a last known address of 6714 Forsythia Street, Springfield, VA 22150, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in

any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Ghanem by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Ghanem may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Ghanem. This Order shall be published in the **Federal Register**.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscode.house.gov>)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Sixth, this Order is effective immediately and shall remain in effect until August 12, 2025.

Issued: March 31, 2017.

Hillary Hess,

Acting Director, Office of Exporter Services.

[FR Doc. 2017-06813 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-964]

Seamless Refined Copper Pipe and Tube From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of the Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 22, 2017, the United States Court of International Trade ("CIT") issued its final judgment in litigation pursuant to the third antidumping duty administrative review of seamless refined copper pipe and tube from the People's Republic of China, sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce ("the Department"). The Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the antidumping administrative review, and the Department is amending those final results with respect to the weighted-average dumping margin assigned to Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., and Golden Dragon Holding (Hong Kong) International, Ltd. (collectively, "Golden Dragon").

DATES: *Effective Date:* April 3, 2017.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, 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) 482-2769.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 2015, the Department published the *Final Results*.¹ On June

¹ See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32087 (June 5, 2015) ("*Final Results*").

24, 2015, Golden Dragon, the respondent in the underlying proceeding, timely filed a complaint with the CIT to challenge certain aspects of the *Final Results*. On July 21, 2016, the CIT remanded the *Final Results* to the Department to further explain or reconsider the application of the value-added tax ("VAT") adjustment to the export price of Golden Dragon.² On February 7, 2017, the Department issued its *Remand Results*, in which the Department determined that all of the copper cathode inputs used by Golden Dragon in the production of subject merchandise were VAT-exempt.³

On March 22, 2017, the CIT sustained the Department's *Remand Results*, and entered final judgment.⁴

Timken Notice

In its decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("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 March 22, 2017, judgment sustaining the Department's *Remand Results* constitutes a final decision of that court that is not in harmony with the Department's *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 pending the expiration of the period of 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 its *Final Results* with respect to Golden

² See *Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., Golden Dragon Holding (Hong Kong) International, Ltd., and GD Copper (U.S.A.) Inc., v. United States*, Slip Op. 16-73, Court No. 15-00177 (CIT 2016).

³ See *Final Results of Redetermination Pursuant to Court Order, Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., Golden Dragon Holding (Hong Kong) International, Ltd., and GD Copper (U.S.A.) Inc., v. United States*, Consol. Court No. 15-00177 (February 7, 2017) ("*Remand Results*").

⁴ See *Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., Golden Dragon Holding (Hong Kong) International, Ltd., and GD Copper (U.S.A.) Inc., v. United States*, Slip Op. 17-29, Court No. 15-00177 (CIT 2017).

Dragon's weighted-average dumping margin. The revised weighted-average dumping margin for Golden Dragon during the period November 1, 2012, through October 31, 2013, is as follows:

Exporter	Weighted-average dumping margin (%)
Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., and Golden Dragon Holding (Hong Kong) International, Ltd	6.09

In the event the CIT's ruling is not appealed or, if appealed, is upheld by a final and conclusive court decision, the Department will instruct the U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise based on the revised rate calculated by the Department in the *Remand Results*, and listed above.

Cash Deposit Requirements

Because there have been subsequent administrative reviews for Golden Dragon, the cash deposit rate will remain the rate published in the *2013-2014 Final Results*, which is 0.00 percent.⁵

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: April 4, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-07105 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's

⁵ See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 39893, 39894 (June 20, 2016).

regulations, we are initiating those administrative reviews.

DATES: Effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482-4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (“POR”), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at <http://access.trade.gov> in accordance with 19 CFR 351.303.¹ Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (“the Act”). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department’s service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, except for the reviews of the antidumping duty orders on certain crystalline silicon photovoltaic products from Taiwan and the People’s Republic of China (“PRC”), the Department intends to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the

initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be “collapsed” (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (“Q&V”) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Certain Crystalline Silicon Photovoltaic Products From Taiwan and the PRC

In the event the Department limits the number of respondents selected for individual examination in the administrative reviews of the antidumping duty orders on certain crystalline silicon photovoltaic products from Taiwan and the PRC, the Department intends to select respondents, for those two reviews, based on volume data contained in responses to Q&V Questionnaires. Further, the Department intends to limit the number of Q&V Questionnaires issued in those two reviews, based on CBP data for U.S. imports of solar cells and/or solar modules. We note that the units used to measure U.S. import quantities of solar cells and solar modules in CBP data are “number”; however, it would not be meaningful to sum the number of imported solar cells and the number of imported solar modules in attempting to determine the volume of subject merchandise exported by Taiwanese exporters. Moreover, we also have concerns regarding inconsistencies in the unit of measure used to report CBP data for solar modules exported from the PRC. Therefore, the Department will limit the number of Q&V Questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to these two antidumping duty administrative reviews of certain crystalline silicon photovoltaic products to which the Department does not send a Q&V Questionnaire may file a response to the Q&V Questionnaire by the applicable deadline if they desire to be included in the pool of companies from which the Department will select mandatory respondents. The Q&V Questionnaire will be available on the Department’s Web site at <http://trade.gov/enforcement/news.asp> on the date of publication of this notice in the **Federal Register**. The responses to the Q&V Questionnaire must be received by the Department no later than 14 days after the publication date of this initiation notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department does not intend to grant any extensions for the submission of responses to the Q&V Questionnaire. Parties will be given the opportunity to comment on the CBP data used by the Department to limit the number of Q&V Questionnaires issued. We intend to place CBP data on the record within five days of publication of

¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

this notice in the **Federal Register**. Comments regarding the CBP data and respondent selection should be submitted seven days after placement of the CBP data on the record.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate

application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding² should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,³ should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned

firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Furthermore, companies to which the Department issues Q&V Questionnaires in the administrative review of the antidumping duty order on certain crystalline silicon photovoltaic products from the PRC must submit a timely and complete response to the Q&V Questionnaire, in addition to a timely and complete Separate Rate Status Application or Separate Rate Certification in order to receive consideration for separate-rate status. In other words, the Department will not give consideration to any timely Separate Rate Status Application or Separate Rate Certification made by parties to whom the Department issued a Q&V Questionnaire but who failed to respond in a timely manner to the Q&V Questionnaire. Exporters subject to the administrative review of the antidumping duty order on certain crystalline silicon photovoltaic products from the PRC to which the Department does not send a Q&V Questionnaire may receive consideration for separate-rate status if they file a timely Separate Rate Status Application or a timely Separate Rate Certification without filing a response to the Q&V Questionnaire. All information submitted by respondents in the antidumping duty administrative review of certain crystalline silicon photovoltaic products from the PRC is subject to verification. As noted above, the Separate Rate Certification, the Separate Rate Status Application, and the Q&V Questionnaire will be available on the Department's Web site on the date of publication of this notice in the **Federal Register**.

Initiation of Reviews:

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 28, 2018.

² Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (e.g., an ongoing administrative review, new

shipper review, etc.) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

³ Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Stainless Steel Bar, A-351-825 Villares Metals S.A.	2/1/16-1/31/17
India: Certain Preserved Mushrooms, A-533-813 Himalya International Limited.	2/1/16-1/31/17
India: Certain Frozen Warmwater Shrimp, A-533-840 Abad Fisheries. Akshay Food Impex Private Limited. Alashore Marine Exports (P) Ltd. Alpha Marine. Allana Frozen Foods Pvt. Ltd. Allanasons Ltd. AMI Enterprises. Amulya Seafoods. Amarsagar Seafoods Exports Private Limited. Ananda Aqua Applications/Ananda Aqua Exports (P) Limited/Ananda Foods. Ananda Enterprises (India) Private Limited. Angelique Intl. Anjaneya Seafoods. Apex Frozen Foods Private Limited. Aquatica Frozen Foods Global Pvt. Ltd. Arya Sea Foods Private Limited. Asvini Exports. Avanti Feeds Limited/Avanti Frozen Foods Private Limited. ⁴ Asvini Fisheries Ltd/Asvini Fisheries Private Limited. Ayshwarya Seafood Private Limited. B-One Business House Pvt. Ltd. B R Traders. Baby Marine Exports. Baby Marine International. Baby Marine Sarass. Baby Marine Ventures. Balasore Marine Exports Private Limited. Bay Seafoods. Bhatsons Aquatic Products. Bhavani Seafoods. Bijaya Marine Products. Blue Fin Frozen Foods Pvt. Ltd. Blue Water Foods & Exports P. Ltd. Bluepark Seafoods Private Ltd. BMR Exports. BMR Industries Private Limited. Britto Exports. C P Aquaculture (India) Ltd. Calcutta Seafoods Pvt. Ltd. Canaan Marine Products. Capithan Exporting Co. Cargomar Private Limited. Castlerock Fisheries Ltd. Chakri Fisheries Private Limited. Chemmeens (Regd). Cherukattu Industries (Marine Div.). Choice Trading Corporation Private Limited. Coastal Aqua. Coastal Corporation Ltd. Cochin Frozen Food Exports Pvt. Ltd. Coreline Exports. Corlim Marine Exports Pvt. Ltd. Crystal Sea Foods Private Limited. D2 D Logistics Private Limited. Damco India Private Limited. Delsea Exports Pvt. Ltd. Devi Aquatech Private Limited. Devi Fisheries Limited/Satya Seafoods Private Limited/Usha Seafoods. Devi Marine Food Exports Private Ltd/Kader Exports Private Limited/Kader Investment and Trading Company Private Limited/Liberty Frozen Foods Pvt. Ltd/Liberty Oil Mills Ltd/Premier Marine Products Private Limited/Universal Cold Storage Private Limited. Devi Sea Foods Limited. ⁵ Diamond Seafoods Exports/Edhayam Frozen Foods Pvt. Ltd/Kadalkanny Frozen Foods/Theva & Company. Edhayam Frozen Foods Private Limited. Esmario Export Enterprises. Exporter Coreline Exports/Falcon Marine Exports Limited/K.R. Enterprises. Febin Marine Foods.	2/1/16-1/31/17

	Period to be reviewed
<p>Five Star Marine Exports Private Limited. Forstar Frozen Foods Pvt. Ltd. Frontline Exports Pvt. Ltd. G A Randerian Ltd. Gadre Marine Exports. Galaxy Maritech Exports P. Ltd. Geo Aquatic Products (P) Ltd. Geo Seafoods. Goodwill Enterprises. Grandtrust Overseas (P) Ltd. Growel Processors Private Limited. GVR Exports Pvt. Ltd. Haripriya Marine Export Pvt. Ltd. Harmony Spices Pvt. Ltd. HIC ABF Special Foods Pvt. Ltd. Hindustan Lever, Ltd. Hiravata Ice & Cold Storage. Hiravati Exports Pvt. Ltd. Hiravati International Pvt. Ltd (located at APM—Mafco Yard, Sector—18, Vashi, Navi, Mumbai—400 705, India). Hiravati International Pvt. Ltd (located at Jawar Naka, Porbandar, Gujarat, 360 575, India). HN Indigos Private Limited. Hyson Logistics and Marine Exports Private Limited. IFB Agro Industries Ltd. Indian Aquatic Products. Indo Aquatics. Indo Fisheries. Indo French Shellfish Company Private Limited. Innovative Foods Limited. International Freezefish Exports. Interseas. ITC Limited, International Business. ITC Ltd. Jagadeesh Marine Exports. Jayalakshmi Sea Foods Pvt. Ltd. Jinny Marine Traders. Jiya Packagings. K V Marine Exports. Kadalkanny Frozen Foods. Kader Exports Private Limited. Kader Investment and Trading Company Private Limited. Kalyan Aqua & Marine Exp. India Pvt. Ltd. Kalyanee Marine. Kanch Ghar. Karunya Marine Exports Private Limited. Kay Kay Exports. Kay Kay Exports (Kay Kay Foods). Kings Marine Products. KNC Agro Limited. Koluthara Exports Ltd. Landauer Ltd. Liberty Frozen Foods Private Limited. Liberty Oil Mills Ltd. Libran Cold Storages (P) Ltd. Magnum Estates Limited. Magnum Export. Magnum Sea Foods Limited. Malabar Arabian Fisheries. Malnad Exports Pvt. Ltd. Mangala Marine Exim India Pvt. Ltd. Mangala Sea Foods. Mangala Sea Products. Marine Harvest India. Meenaxi Fisheries Pvt. Ltd. Milesh Marine Exports Private Limited. Monsun Foods Pvt Ltd. Munnangi Sea Foods Pvt. Ltd. N.C. John & Sons (P) Ltd. Naga Hanuman Fish Packers. Naik Frozen Foods Private Limited. Naik Seafoods Ltd. Naik Oceanic Exports Pvt. Ltd/Rafiq Naik Exports Pvt. Ltd. Neeli Aqua Private Limited. Nekkanti Sea Foods Limited.</p>	

	Period to be reviewed
Nezami Rekha Sea Foods Private Limited. NGR Aqua International. Nila Sea Foods Exports. Nila Sea Foods Pvt. Ltd. Nine Up Frozen Foods. Nutrient Marine Foods Ltd. Oceanic Edibles International Limited. Paragon Sea Foods Pvt. Ltd. Paramount Seafoods. Parayil Food Products Pvt. Ltd. Pasupati Aquatics Private Limited. Penver Products Pvt. Ltd. Pesca Marine Products Pvt. Ltd. Pijikay International Exports P Ltd. Pisces Seafood International. Pravesh Seafood Private Limited. Premier Exports International. Premier Marine Foods. Premier Seafoods Exim (P) Ltd. R V R Marine Products Limited. Raa Systems Pvt. Ltd. Raju Exports. Ram's Assorted Cold Storage Ltd. Raunaq Ice & Cold Storage. Raysons Aquatics Pvt. Ltd. Razban Seafoods Ltd. RBT Exports. RDR Exports. RF Exports. Riviera Exports Pvt. Ltd. Rohi Marine Private Ltd. Royal Marine Impex Private Limited. RSA Marines. S & S Seafoods. S Chanchala Combines. S. A. Exports. Safa Enterprises. Sagar Grandhi Exports Pvt. Ltd. Sagar Samrat Seafoods. Sagarvihar Fisheries Pvt. Ltd. Sai Marine Exports Pvt. Ltd. Sai Sea Foods. Salvam Exports (P) Ltd. Sanchita Marine Products Private Limited. Sandhya Aqua Exports. Sandhya Aqua Exports Pvt. Ltd. Sandhya Marines Limited. Santhi Fisheries & Exports Ltd. Sarveshwari Exports. Satya Seafoods Private Limited. Sea Foods Private Limited. Seagold Overseas Pvt. Ltd. Selvam Exports Private Limited. Sharat Industries Ltd. Sharma Industries. Shimpo Exports Pvt. Ltd. Shimpo Seafoods Private Limited. Shiva Frozen Food Exports Pvt. Ltd. Shree Datt Aquaculture Farms Pvt. Ltd. Shroff Processed Food & Cold Storage P Ltd. Silver Seafood. Sita Marine Exports. Southern Tropical Foods Pvt. Ltd. Sowmya Agri Marine Exports. Sprint Exports Pvt. Ltd Sri Sakkthi Cold Storage. Sri Venkata Padmavathi Marine Foods Pvt. Ltd. Srikanth International. Star Agro Marine Exports Private Limited. Star Organic Foods Incorporated. Star Organic Foods Private Limited. Sterling Foods. Sun-Bio Technology Ltd. Sunrise Aqua Food Exports.	

	Period to be reviewed
Supran Exim Private Limited. Suryamitra Exim (P) Ltd. Suvarna Rekha Exports Private Limited. Suvarna Rekha Marines P Ltd. TBR Exports Pvt Ltd. Teekay Marine P. Ltd. The Waterbase Limited. Triveni Fisheries P Ltd. U & Company Marine Exports. Ulka Sea Foods Private Limited. Uniroyal Marine Exports Ltd. Unitriveni Overseas. Universal Cold Storage Private Limited. Usha Seafoods. V V Marine Products. V.S. Exim Pvt Ltd. Vasai Frozen Food Co. Vasista Marine. Veejay Impex. Veerabhadra Exports Private Limited. Veronica Marine Exports Private Limited. Victoria Marine & Agro Exports Ltd. Vinner Marine. Vitality Aquaculture Pvt., Ltd. Wellcome Fisheries Limited. West Coast Fine Foods (India) Private Limited. West Coast Frozen Foods Private Limited. Z A Sea Foods Pvt. Ltd.	
India: Stainless Steel Bar, A-533-810	2/1/16-1/31/17
Ambica Stainless Steel Limited (now known as Aamor Inox Limited). Ambica Steels Limited. Bhansali Bright Bars Pvt. Ltd.	
Italy: Stainless Steel Butt-Weld Pipe Fittings, A-475-828	2/1/16-1/31/17
Filmag Italia Spa.	
Mexico: Large Residential Washers, A-201-842	2/1/16-1/31/17
Electrolux Home Corp. NV. Electrolux Home Products de Mexico S.A. de C.V. Electrolux Hone Products, Inc.	
Republic of Korea: Certain Cut-to-Length Carbon-Quality Steel Plate Products, A-580-836	2/1/16-1/31/17
Bookuk Steel Co., Ltd. Daewoo International Corp. Dongkuk Steel Mill Co., Ltd. Hyundai Glovis Co., Ltd. Hyundai Mipo Dockyard Co., Ltd. Hyundai Steel Company. Hyosung Corporation. Samsung C&T Corp. Samsung C&T Engineering & Construction Group. Samsung C&T Trading and Investment Group. Samsung Heavy Industries. SK Networks Co., Ltd. Steel N People Ltd. Sung Jin Steel Co., Ltd.	
Republic of Korea: Large Residential Washers, A-580-868	2/1/16-1/31/17
LG Electronics, Inc. LG Electronics, USA, Inc.	
Socialist Republic of Vietnam: Certain Frozen Warmwater Shrimp, A-552-802	2/1/16-1/31/17
Amanda Seafood Co., Ltd. Asia Food Stuffs Import Export Co., Ltd. Au Vung One Seafood Processing Import & Export Joint Stock Company. Au Vung Two Seafood Processing Import & Export Joint Stock Company. Bac Lieu Fisheries Joint Stock Company ("BacLieu Fis"). Bac Lieu Fisheries Joint Stock Company. Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company ("Faquimex"). Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX). Bentre Aquaproduct Import & Export Joint Stock Company. Bien Dong Seafood Co., Ltd. BIM Seafood Joint Stock Company. Binh Thuan Import-Export Joint Stock Company (THAIMEX). B.O.P. Limited Co. C.P. Vietnam Corporation. C.P. Vietnam Corporation ("C.P.Vietnam"). Ca Mau Seafood Joint Stock Company ("Seaprimexco Vietnam").	

	Period to be reviewed
<p>Ca Mau Frozen Seafood Joint Stock Company (“Seaprimexco Vietnam”). Cadovimex Seafood Import-Export and Processing Joint Stock Company (“Cadovimex”). CADOVIMEX Seafood Import-Export and Processing Joint Stock Company. Cai Doi Vam Seafood Import-Export Co (“CADOVIMEX”). Cafatex Corporation. Cam Ranh Seafoods. Camau Frozen Seafood Processing Import Export Corporation (“Camimex”). Camau Seafood Processing and Service Joint Stock Corporation (“CASES”). Camau Seafood Processing and Service Joint Stock Corporation (and its affiliates, Kien Giang Branch—Camau Seafood Processing 2 Service Joint Stock Corporation, collectively “CASES”). Camau Seafood and Service Joint Stock Company (“CASES”). Can Tho Import Export Fishery Limited Company (“CAFISH”). Coastal Fisheries Development Corporation (“COFIDEC”). CJ Freshway (FIDES Food System Co., Ltd). Cong Ty TNHH Thong Thuan (Thong Thuan). Cuulong Seaproducts Company (“Cuulong Seapro”). Dong Hai Seafood Limited Company. Duc Cuong Seafood Trading Co., Ltd. Fimex VN. Fine Foods Co (“FFC”). Fine Foods Company (FFC). Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company). Frozen Seafoods Factory No. 32 (Tho Quang Seafood Processing and Export Company). Gallant Dachan Seafood Co., Ltd. Gallant Ocean (Vietnam) Co Ltd. Gallant Ocean (Viet Nam) Co., Ltd (“Gallant Ocean Vietnam”). Green Farms Seafoods Joint Stock Company. Green Farms Joint Stock Company. Hai Viet Corporation (“HAVICO”). Hanh An Trading Service Co., Ltd. Hoang Phuong Seafood Factory. Huynh Huong Seafood Processing. Investment Commerce Fisheries Corporation. Investment Commerce Fisheries Corporation (“Incomfish”). JK Fish Co., Ltd. Khai Minh Trading Investment Corporation. Khanh Sung Company, Ltd. Kim Anh Company Limited. Kim Anh Company Ltd (Thai Tan company and Ngoc Thai Company, collectively “Kim Anh”). Long Toan Frozen Aquatic Products Joint Stock Company. Minh Cuong Seafood Import-Export Processing (“MC Seafood”). Minh Hai Export Frozen Seafood Processing Joint-Stock Company (“Minh Hai Jostoco”). Minh Hai Joint-Stock Seafoods Processing Company (“Seaprodex Minh Hai”). Minh Hai Joint-Stock Seafoods Processing Company. Minh Phu Seafood Corporation. My Son Seafoods Factory. Nam Hai Foodstuff and Export Company Ltd. New Wind Seafood Co., Ltd. Ngo Bros. Ngo Bros Seaproducts Import-Export One Member Company Limited (“Ngo Bros. Co., Ltd”). NGO BROS Seaproducts Import-Export One Member Company Limited (“NGO BROS Company”). Ngoc Tri Seafood Joint Stock Company. Nha Trang Seaproduct Company (and its affiliates NT Seafoods Corporation, Nha Trang Seafoods—F.89 Joint Stock Company, NTSF Seafoods Joint Stock Company (collectively “Nha Trang Seafoods Group”). Nha Trang Fisheries Joint Stock Company (“Nha Trang Fisco”). Nha Trang Fisheries Joint Stock Company. Nha Trang Seafoods. Nha Trang Seaproduct Company. Nhat Duc Co., Ltd. Phu Cuong Jostoco Seafood Corporation. Phuong Nam Co., Ltd. Phuong Nam Foodstuff Corp. (“Phuong Nam Co., Ltd”). Phuong Nam Foodstuff Corp. Quang Minh Seafood Co., Ltd. Quang Minh Seafood Co LTD (“Quang Minh”). Quoc Ai Seafood Processing Import Export Co., Ltd. Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd. Quoc Viet Seaproducts Processing Trade and Import-Export Co., Ltd (“Quoc Viet Co Ltd”). Saigon Food Joint Stock Company. Sao Ta Foods Joint Stock Company (FIMEX VN). Sao Ta Foods Joint Stock Company. Sao Ta Foods Joint Stock Company (“FIMEX VN”) (and its factory “Sao Ta Seafoods Factory”). Sea Minh Hai.</p>	

	Period to be reviewed
<p>Seafoods and Foodstuff Factory. Seaprimexco Vietnam. Seaprodex Minh Hai. Seavina Joint Stock Company. Soc Trang Seafood Joint Stock Company (“STAPIMEX”). Tacvan Frozen Seafood Processing Export Company. Tacvan Seafoods Company. Tacvan Seafoods Company (“TACVAN”). Tacvan Seafoods Company (TACVAN). Tai Kim Anh Seafood Joint Stock Corporation. Taika Seafood Corporation. Tan Phong Phu Seafood Co., Ltd (“TPP Co., Ltd”). Tan Thanh Loi Frozen Food Co., Ltd. Taydo Seafood Enterprise. Thanh Doan Sea Products Import & Export Processing Joint-Stock Company. Thinh Hung Co., Ltd. Thong Thuan Seafood Company Limited. Thong Thuan Company Limited. Thong Thuan Cam Ranh Seafood Joint Stock Company. Thong Thuan—Cam Ranh Seafood Joint Stock Company. Trong Nhan Seafood Company Limited. Thuan Phuoc Seafoods and Trading Corporation. Thuan Phuoc Seafoods and Trading Corporation (“Thuan Phuoc Corp”). Thuan Phuoc Seafoods and Trading Corporation and its separate factories Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory (collectively “Thuan Phuoc Corp.”). Trang Khan Seafood Co., Ltd. Trong Nhan Seafood Company Limited. Trong Nhan Seafood Co., Ltd (“Trong Nhan”). Trung Son Seafood Processing Joint Stock Company (“Trung Son”). UTXI Aquatic Products Processing Corporation. UTXI Aquatic Products Processing Company. UTXI Aquatic Products Processing Corporation (“UTXICO”) (and its branch Hoang Phuong Seafood Factory and Hoang Phong Seafood Factory). Viet Foods Co., Ltd (“Viet Foods”). Viet Hai Seafood Co., Ltd. Viet I-Mei Frozen Foods Co., Ltd. Viet I-Mei Frozen Foods Co Ltd (“Viet I-Mei”). Vietnam Clean Seafood Corporation (“Vina Cleanfood”). Viet Hai Seafood Co., Ltd. Vietnam Fish One Co., Ltd. Vinh Hoan Corp. Xi Nghiep Che Bien Thuy Suc San Xuat Kau Cantho.</p>	
<p>Socialist Republic of Vietnam: Steel Wire Garment Hangers, A-552-812 Angang Clothes Rack Manufacture Co. Asmara Home Vietnam. B2B Co., Ltd. Capco Wai Shing Viet Nam Co Ltd. Cong Ty Co Phan Moc Ao. CTN Co Ltd. C.T.N. International Ltd. CTN Limited Company. Cty Tnhn Mtv Xnk My Phuoc. Cty Thnh San Xuat My Phuoc Long An Factory. Dai Nam Group. Dai Nam Investment JSC. Diep Son Hangers Co Ltd. Diep Son Hangers One Member Co Ltd. Dong Nam A Co Ltd. Dong Nam A Hamico Joint Stock Company. Dong Nam A Trading Co. EST Glory Industrial Ltd. Focus Shipping Corp. Godoxa Vietnam Co Ltd. Godoxa Viet Nam Ltd. HCMC General Import and Export Investment Joint Stock Company. Hongxiang Business and Product Co., Ltd. Huqhu Co., Ltd. Infinite Industrial Hanger Limited. Infinite Industrial Hanger Co Ltd. Ju Fu Co Ltd. Linh Sa Hamico Company, Ltd. Long Phung Co Ltd. Lucky Cloud (Vietnam) Hanger Co Ltd.</p>	2/1/16-1/31/17

	Period to be reviewed
Minh Quang Hanger. Minh Quang Steel Joint Stock Company. Moc Viet Manufacture Co., Ltd. Nam A Hamico Export Joint Stock Co. Nghia Phoung Nam Production Company. Nguyen Haong Vu Co Ltd. N-Tech Vina Co Ltd. NV Hanger Co., Ltd. Quoc Ha Production Trading Services Co Ltd. Quyky Co., Ltd. Quyky Group. Quyky-Yangle International Co., Ltd. S.I.I.C. South East Asia Hamico Exports JSC. T.J. Co Ltd. T.J. Group. Tan Dihn Enterprise. Tan Dinh Enterprise. Tan Minh Textile Sewing Trading Co., Ltd. Thanh Hieu Manufacturing Trading Co Ltd. The Xuong Co Ltd. Thien Ngon Printing Co., Ltd. Top Sharp International Trading Limited. Triloan Hangers, Inc. Tri-State Trading. Trung Viet My Joint Stock Company. Truong Hong Lao—Viet Joint Stock Co., Ltd. Uac Co Ltd. Viet Anh Imp-Exp Joint Stock Co. Viet Hanger. Viet Hanger Investment, LLC. Vietnam Hangers Joint Stock Company. Vietnam Sourcing. VNS. VN Sourcing. Yen Trang Co., Ltd.	
Socialist Republic of Vietnam: Utility Scale Wind Towers, A-552-814 CS Wind Vietnam Co., Ltd and CS Wind Corporation. ⁶ Vina Halla Heavy Industries Ltd. UBI Tower Sole Member Company Ltd.	2/1/16-1/31/17
Taiwan: Certain Crystalline Silicon Photovoltaic Products, A-583-853 AU Optronics Corporation. Baoding Jiasheng Photovoltaic Technology Co Ltd. Baoding Tianwei Yingli New Energy Resources Co., Ltd. Beijing Tianneng Yingli New Energy Resources Co Ltd. Boviet Solar Technology Co., Ltd. Canadian Solar Inc. Canadian Solar International, Ltd. Canadian Solar Manufacturing (Changshu), Inc. Canadian Solar Manufacturing (Luoyang), Inc. Canadian Solar Solution Inc. EEPV Corp. E-TON Solar Tech. Co., Ltd. Gintech Energy Corporation. Hainan Yingli New Energy Resources Co., Ltd. Hengshui Yingli New Energy Resources Co., Ltd. Inventec Energy Corporation. Inventec Solar Energy Corporation. Kyocera Mexicana S.A. de C.V. Lixian Yingli New Energy Resources Co., Ltd. Motech Industries, Inc. Neo Solar Power Corporation. Shenzhen Yingli New Energy Resources Co., Ltd. Sino-American Silicon Products Inc. Solartech Energy Corporation. Sunengine Corporation Ltd. Sunrise Global Solar Energy. Tianjin Yingli New Energy Resources Co., Ltd. Trina Solar (Schweiz) AG. Trina Solar (Singapore) Science and Technology Pte Ltd. TSEC Corporation. Vina Solar Technology Co., Ltd. Win Win Precision Technology Co., Ltd.	2/1/16-1/31/17

	Period to be reviewed
<p>Yingli Energy (China) Co., Ltd. Yingli Green Energy International Trading Company Limited. Thailand: Certain Frozen Warmwater Shrimp, A-549-822 A Foods 1991 Co., Limited/May Ao Foods Co., Ltd. A. Wattanachai Frozen Products Co., Ltd. A.P. Frozen Foods Co., Ltd. A.S. Intermarine Foods Co., Ltd. ACU Transport Co., Ltd. Ampai Frozen Food Co., Ltd. Anglo-Siam Seafoods Co., Ltd. Apex Maritime (Thailand) Co., Ltd. Apitoon Enterprise Industry Co., Ltd. Applied DB Ind. Asian Seafood Coldstorage (Sriracha). Asian Seafoods Coldstorage Public Co., Ltd/Asian Seafoods Coldstorage (Suratthani) Co., Limited/STC Foodpak Ltd. Assoc. Commercial Systems. B.S.A. Food Products Co., Ltd. Bangkok Dehydrated Marine Product Co., Ltd. C Y Frozen Food Co., Ltd. C.P. Mdse. C.P. Merchandising Co., Ltd/Charoen Pokphand Foods Public Co., Ltd/Klang Co., Ltd/Seafoods Enterprise Co., Ltd/ Thai Prawn Culture Center Co., Ltd. C.P. Retailing and Marketing Co., Ltd. C.P. Intertrade Co Ltd. Calsonic Kansei (Thailand) Co., Ltd. Century Industries Co., Ltd. Chaivaree Marine Products Co., Ltd. Chaiwarut Company Limited. Charoen Pokphand Petrochemical Co., Ltd. Chonburi LC. Chue Eie Mong Eak. Commonwealth Trading Co., Ltd. Core Seafood Processing Co., Ltd. C.P.F. Food Products Co., Ltd. Crystal Frozen Foods Co., Ltd. Crystal Seafood. Daedong (Thailand) Co Ltd. Daiei Taigen (Thailand) Co., Ltd. Daiho (Thailand) Co., Ltd. Dynamic Intertransport Co., Ltd. Earth Food Manufacturing Co., Ltd. F.A.I.T. Corporation Limited. Far East Cold Storage Co., Ltd. Findus (Thailand) Ltd. Fortune Frozen Foods (Thailand) Co., Ltd. Frozen Marine Products Co., Ltd. Gallant Ocean (Thailand) Co., Ltd. Gallant Seafoods Corporation. Global Maharaja Co., Ltd. Golden Sea Frozen Foods Co., Ltd. Golden Thai Imp. & Exp. Co., Ltd. Good Fortune Cold Storage Co Ltd. Good Luck Product Co., Ltd. Grobest Frozen Foods Co., Ltd. Gulf Coast Crab Intl. H.A.M. International Co., Ltd. Haitai Seafood Co., Ltd. Handy International (Thailand) Co., Ltd. Heng Seafood Limited Partnership. Heritrade. HIC (Thailand) Co., Ltd. High Way International Co., Ltd. I.S.A. Value Co., Ltd. I.T. Foods Industries Co., Ltd. Inter-Oceanic Resources Co., Ltd. Inter-Pacific Marine Products Co., Ltd. K & U Enterprise Co., Ltd. K Fresh. K.D. Trading Co., Ltd. K.L. Cold Storage Co., Ltd. KF Foods Ltd. Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd. Kibun Trdg.</p>	<p>2/1/16-1/31/17</p>

	Period to be reviewed
<p>Kingfisher Holdings Ltd. Kitchens of the Oceans (Thailand) Company, Ltd. Kongphop Frozen Foods Co., Ltd. Lee Heng Seafood Co., Ltd. Leo Transports. Li-Thai Frozen Foods Co., Ltd. Lucky Union Foods Co., Ltd. Magnate & Syndicate Co., Ltd. Mahachai Food Processing Co., Ltd. Mahachai Marine Foods Co., Ltd. Marine Gold Products Ltd.⁷ Merit Asia Foodstuff Co., Ltd. Merkur Co., Ltd. Ming Chao Ind Thailand. N&N Foods Co., Ltd. N.R. Instant Produce Co., Ltd. Namprik Maesri Ltd Part. Narong Seafood Co., Ltd. Nongmon SMJ Products. Ongkorn Cold Storage Co., Ltd/Thai-Ger Marine Co., Ltd. Pacific Queen Co., Ltd. Pakfood Public Company Limited/Asia Pacific (Thailand) Co., Ltd/Chaophraya Cold Storage Co., Ltd/Okeanos Co., Ltd/ Okeanos Food Co., Ltd/Takzin Samut Co., Ltd/Thai Union Group Public Co., Ltd/Thai Union Seafood Co., Ltd.⁸ Pakpanang Coldstorage Public Co., Ltd. Penta Impex Co., Ltd. Pinwood Nineteen Ninety Nine. Piti Seafood Co., Ltd. Premier Frozen Products Co., Ltd. Preserved Food Specialty Co., Ltd. Queen Marine Food Co., Ltd. Rayong Coldstorage (1987) Co., Ltd. S2K Marine Product Co., Ltd. S&D Marine Products Co., Ltd. S&P Aquarium. S&P Syndicate Public Company Ltd. S. Chaivaree Cold Storage Co., Ltd. S. Khonkaen Food Industry Public Co., Ltd and/or S. Khonkaen Food Ind. Public. S.K. Foods (Thailand) Public Co Limited. Samui Foods Company Limited. SB Inter Food Co., Ltd. SCT Co., Ltd. Sea Bonanza Food Co., Ltd. SEA NT'L CO., LTD. Seafresh Fisheries/Seafresh Industry Public Co., Ltd. Search and Serve. Sethachon Co., Ltd. Shianlin Bangkok Co., Ltd. Shing Fu Seaproducts Development Co. Siam Food Supply Co., Ltd. Siam Haitian Frozen Food Co., Ltd. Siam Intersea Co., Ltd. Siam Marine Products Co Ltd. Siam Ocean Frozen Foods Co Ltd. Siam Union Frozen Foods. Siamchai International Food Co., Ltd. Smile Heart Foods. SMP Food Products, Co., Ltd. Southport Seafood Co., Ltd. Star Frozen Foods Co., Ltd. Starfoods Industries Co., Ltd. Suntechthai Intertrading Co., Ltd. Surapon Foods Public Co., Ltd/Surat Seafoods Public Co., Ltd. Surapon Nichirei Foods Co., Ltd. Suratthani Marine Products Co., Ltd. Suree Interfoods Co., Ltd. T.S.F. Seafood Co., Ltd. Tep Kinsho Foods Co., Ltd. Teppitak Seafood Co., Ltd. Tey Seng Cold Storage Co., Ltd. Thai Agri Foods Public Co., Ltd. Thai Hanjin Logistics Co., Ltd. Thai Mahachai Seafood Products Co., Ltd. Thai Ocean Venture Co., Ltd.</p>	

	Period to be reviewed
<p>Thai Patana Frozen. Thai Pak Exports Co., Ltd. Thai Royal Frozen Food Co., Ltd. Thai Spring Fish Co., Ltd. Thai Union Manufacturing Company Limited. Thai World Import and Export Co., Ltd. Thai Yoo Ltd., Part. The Siam Union Frozen Foods Co., Ltd. The Union Frozen Products Co., Ltd/Bright Sea Co., Ltd. Trang Seafood Products Public Co., Ltd. Transamut Food Co., Ltd. Tung Lieng Tradg. United Cold Storage Co., Ltd. V. Thai Food Product Co., Ltd. Wann Fisheries Co., Ltd. Xian-Ning Seafood Co., Ltd. Yeenin Frozen Foods Co., Ltd. ZAFCO TRDG.</p>	
<p>The People's Republic of China: Certain Crystalline Silicon Photovoltaic Products, A-570-010 BYD (Shangluo) Industrial Co., Ltd. Canadian Solar Inc. Canadian Solar International Limited. Canadian Solar Manufacturing (Changshu), Inc. Canadian Solar Manufacturing (Luoyang) Inc. Changzhou Trina Solar Energy Co., Ltd/Trina Solar (Changzhou) Science & Technology Co., Ltd. Chint Solar (Zhejiang) Co., Ltd. Hefei JA Solar Technology Co., Ltd. Jinko Solar Co Ltd/Jinko Solar Import and Export Co., Ltd.⁹ Perlight Solar Co., Ltd. Risen Energy Co., Ltd. Shanghai BYD Co., Ltd. Shanghai JA Solar Technology Co., Ltd. Shenzhen Sungold Solar Co., Ltd. Sunny Apex Development Ltd. Wuxi Suntech Power Co., Ltd. Yingli Energy (China) Company Limited. Yingli Green Energy International Trading Limited. Baoding Jiasheng Photovoltaic Technology Co Ltd. Baoding Tianwei Yingli New Energy Resources Co., Ltd. Beijing Tianneng Yingli New Energy Resources Co Ltd. Hainan Yingli New Energy Resources Co., Ltd. Hengshui Yingli New Energy Resources Co., Ltd. Lixian Yingli New Energy Resources Co., Ltd. Shenzhen Yingli New Energy Resources Co., Ltd. Tianjin Yingli New Energy Resources Co., Ltd. Zhejiang Jinko Solar Co., Ltd.</p>	<p>2/1/16-1/31/17</p>
<p>The People's Republic of China: Certain Frozen Warmwater Shrimp, A-570-893 Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.¹⁰ Allied Pacific Food (Dalian) Co., Ltd. Allied Pacific (HK) Co., Ltd. Asian Seafoods (Zhanjiang) Co., Ltd. Beihai Anbang Seafood Co., Ltd. Beihai Boston Frozen Food Co., Ltd. Beihai Tianwei Aquatic Food Co Ltd. Changli Luquan Aquatic Products Co., Ltd. Dalian Beauty Seafood Company Ltd. Dalian Haiqing Food Co., Ltd. Dalian Rich Enterprise Group Co., Ltd. Dalian Shanhai Seafood Co., Ltd. Dalian Taiyang Aquatic Products Co., Ltd. Fujian Chaohui Group. Fujian Chaohui Aquatic Food Co., Ltd. Fujian Chaohui International Trading Co., Ltd. Fujian Dongshan County Shunfa Aquatic Product Co., Ltd. Fujian Dongya Aquatic Products Co., Ltd. Fujian Haohui Import & Export Co., Ltd. Fujian Hongao Trade Development Co. Fujian Rongjiang Import and Export Co., Ltd. Fujian Tea Import & Export Co., Ltd. Fujian Zhaoan Haili Aquatic Co., Ltd. Fuqing Chaohui Aquatic Food Co., Ltd. Fuqing Dongwei Aquatic Products Ind. Fuqing Dongwei Aquatic Products Industry Co., Ltd.</p>	<p>2/1/16-1/31/17</p>

	Period to be reviewed
<p>Fuqing Longhua Aquatic Food Co., Ltd. Fuqing Minhua Trade Co., Ltd. Fuqing Yihua Aquatic Food Co., Ltd. Gallant Ocean Group. Guangdong Foodstuffs Import & Export (Group) Corporation. Guangdong Gourmet Aquatic Products Co., Ltd. Guangdong Jinhang Food Co., Ltd. Guangdong Wanshida Holding Corp. Guangdong Wanya Foods Fty. Co., Ltd. HaiLi Aquatic Product Co., Ltd Zhaoan Fujian. Hainan Brich Aquatic Products Co., Ltd. Hainan Golden Spring Foods Co., Ltd. Huazhou Xinhai Aquatic Products Co Ltd. Longhai Gelin Foods Co., Ltd. Maoming Xinzhou Seafood Co., Ltd. New Continent Foods Co., Ltd. North Seafood Group Co. Olanya (Germany) Ltd. Qingdao Fusheng Foodstuffs Co., Ltd. Qinhuangdao Gangwan Aquatic Products Co., Ltd. Red Garden Food Processing Co., Ltd.¹¹ Rizhao Rongxing Co Ltd. Rizhao Smart Foods Company Limited. Rongcheng Yin Hai Aquatic Product Co., Ltd. Savvy Seafood Inc. Shanghai Zhoulian Foods Co., Ltd. Shantou Freezing Aquatic Product Foodstuffs Co. Shantou Jiazhou Food Industrial Co., Ltd. Shantou Jintai Aquatic Product Industrial Co., Ltd. Shantou Longsheng Aquatic Product Foodstuff Co., Ltd. Shantou Ocean Best Seafood Corporation. Shantou Red Garden Food Processing Co., Ltd. Shantou Red Garden Foodstuff Co., Ltd. Shantou Ruiyuan Industry Co., Ltd. Shantou Wanya Foods Fty. Co., Ltd. Shantou Yelin Frozen Seafood Co., Ltd.¹² Shantou Yuexing Enterprise Company. Thai Royal Frozen Food Zhanjiang Co., Ltd. Xiamen Granda Import and Export Co., Ltd. Yangjiang Dawu Aquatic Products Co., Ltd. Yangjiang Haina Datong Trading Co. Yantai Wei Cheng Food Co., Ltd. Yantai Wei-Cheng Food Co., Ltd. Zhangzhou Donghao Seafoods Co., Ltd. Zhangzhou Xinhui Foods Co., Ltd. Zhangzhou Xinwanya Aquatic Product Co., Ltd. Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd. Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd. Zhanjiang Fuchang Aquatic Products Freezing Plant. Zhanjiang Guolian Aquatic Products Co., Ltd.¹³ Zhanjiang Jinguo Marine Foods Co., Ltd. Zhanjiang Longwei Aquatic Products Industry Co., Ltd. Zhanjiang Newpro Foods Co., Ltd. Zhanjiang Regal Integrated Marine Resources Co., Ltd.¹⁴ Zhanjiang Universal Seafood Corp. Zhaoan Yangli Aquatic Co., Ltd. Zhejiang Xinwang Foodstuffs Co., Ltd. Zhoushan Genho Food Co., Ltd.</p>	
<p>The People's Republic of China: Small Diameter Graphite Electrodes, A-570-929</p> <p>5-Continent Imp. & Exp. Co., Ltd. Acclcarbon Co., Ltd. Allied Carbon (China) Co., Limited. AMGL. Anssen Metallurgy Group Co., Ltd. Apex Maritime (Dalian) Co., Ltd. Asahi Fine Carbon (Dalian) Co., Ltd. Assi Steel Co Ltd. Beijing International Trade Co., Ltd. Beijing Kang Jie Kong Cargo Agent Expeditors (Tianjin Branch). Beijing Shougang Huaxia International Trade Co Ltd. Beijing Xinchengze Inc. Beijing Xincheng Sci-Tech. Development Inc. Brilliant Charter Limited.</p>	2/1/16-1/31/17

	Period to be reviewed
<p>Carbon International. Chang Cheng Chang Electrode Co., Ltd. Chengde Longhe Carbon Factory. Chengdelh Carbonaceous Elements Factory. Chengdu Jia Tang Corp. China Carbon Graphite Group Inc. China Carbon Industry. China Shaanxi Richbond Imp. & Exp. Industrial Corp. Ltd. China Xingyong Carbon Co., Ltd. CIMM Group Co., Ltd. Dalian Carbon & Graphite Corporation. Dalian Hongrui Carbon Co., Ltd. Dalian Honest International Trade Co., Ltd. Dalian Horton International Trading Co., Ltd. Dalian LST Metallurgy Co., Ltd. Dalian Oracle Carbon Co., Ltd. Dalian Shuangji Co., Ltd. Dalian Thrive Metallurgy Imp. & Exp. Co., Ltd. Dandong Xinxin Carbon Co Ltd. Datong Carbon. Datong Carbon Plant. Datong Xincheng Carbon Co., Ltd. Datong Xincheng New Material Co. Dechang Shida Carbon Co., Ltd. De Well Container Shipping Corp. Dewell Group. Dignity Success Investment Trading Co., Ltd. Double Dragon Metals and Mineral Tools Co., Ltd. Fangda Group (The Fangda Group consists of Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd). Fangda Lanzhou Carbon Joint Stock Company Co Ltd. Foset Co., Ltd. Fushun Carbon Plant. Fushun Jinly Petrochemical Carbon Co., Ltd., a.k.a. Fushun Jinli Petrochemical Carbon Co., Ltd. Fushun Oriental Carbon Co., Ltd. GES (China) Co Ltd. GR Industrial Corporation. Grafworld International Inc. Gold Success Group Ltd. Grameter Shipping Co., Ltd (Qingdao Branch). Guangdong Highsun Yongye (Group) Co., Ltd. Guanghan Shida Carbon Co., Ltd. Haimen Shuguang Carbon Industry Co., Ltd. Handan Hanbo Material Co., Ltd. Hanhong Precision Machinery Co., Ltd. Hebei Long Great Wall Electrode Co., Ltd. Heico Universal (Shanghai) Distrubution Co., Ltd. Heilongjiang Xinyuan Carbon Co Ltd. Henan Sanli Carbon Products Co., Ltd. Henan Sihai Import and Export Co., Ltd. Hopes (Beijing) International Co., Ltd. Huanan Carbon Factory. Hunan Mec Machinery and Electronics Imp. & Exp. Corp. Hunan Yinguang Carbon Factory Co., Ltd. Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd. Inner Mongolia Xinghe County Hongyuan Electrical Carbon Factory. Jiangsu Yafei Carbon Co., Ltd. Jiaozuo Zhongzhou Carbon Products Co., Ltd. Jichun International Trade Co., Ltd of Jilin Province. Jiexiu Juyuan Carbon Co., Ltd. Jiexiu Ju-Yuan & Coaly Co., Ltd. Jilin Carbon Graphite Material Co., Ltd. Jilin Carbon Import and Export Company. Jilin Songjiang Carbon Co Ltd. Jinneng Group. Jinneng Group Co., Ltd. Jinyu Thermo-Electric Material Co., Ltd. JL Group. Kaifeng Carbon Company Ltd. KASY Logistics (Tianjin) Co., Ltd. Kimwan New Carbon Technology and Development Co., Ltd. Kingstone Industrial Group Ltd. L & T Group Co., Ltd.</p>	

	Period to be reviewed
<p>Laishui Long Great Wall Electrode Co Ltd. Lanzhou Carbon Co., Ltd. Lanzhou Carbon Import & Export Corp. Lanzhou Hailong Technology. Lanzhou Hailong New Material Co. Lanzhou Ruixin Industrial Material Co., Ltd. Lianxing Carbon Qinghai Co., Ltd. Lianxing Carbon Science Institute. Lianxing Carbon (Shandong) Co., Ltd. Lianyungang Jianglida Mineral Co., Ltd. Lianyungang Jinli Carbon Co., Ltd. Liaoyang Carbon Co Ltd. Linghai Hongfeng Carbon Products Co., Ltd. Linyi County Lubei Carbon Co., Ltd. Maoming Yongye (Group) Co., Ltd. MBI Beijing International Trade Co., Ltd. Nantong Dongjin New Energy Co., Ltd. Nantong Falter New Energy Co., Ltd. Nantong River-East Carbon Co., Ltd. Nantong River-East Carbon Joint Stock Co., Ltd. Nantong Yangtze Carbon Corp. Ltd. Nantong Yanzi Carbon Co Ltd. Oracle Carbon Co., Ltd. Orient (Dalian) Carbon Resources Developing Co., Ltd. Orient Star Transport International, Ltd. Orient Carbon Co Limited. Peixian Longxiang Foreign Trade Co Ltd. Pingdingshan Coal Group. Pudong Trans USA, Inc. (Dalian Office). Qingdao Grand Graphite Products Co., Ltd. Qingdao Haosheng Metals Imp. & Exp. Co., Ltd. Qingdao Haosheng Metals & Minerals Imp. & Exp. Co., Ltd. Qingdao Liyikun Carbon Development Co., Ltd. Qingdao Likun Graphite Co., Ltd. Qingdao Ruizhen Carbon Co., Ltd. Qingdao Yijia E.T.I. I/E Co., Ltd. Qingdao Youyuan Metallurgy Material Limited Company (China). Ray Group Ltd. Rex International Forwarding Co., Ltd. Rt Carbon Co., Ltd. Ruitong Carbon Co., Ltd. Sea Trade International, Inc. Seamaster Global Forwarding (China). Shandong Basan Carbon Plant. Shandong Zibo Continent Carbon Factory. Shanghai Carbon International Trade Co., Ltd. Shanghai GC Co., Ltd. Shanghai Jinneng International Trade Co., Ltd. Shanghai P.W. International Ltd. Shanghai Shen-Tech Graphite Material Co., Ltd. Shanghai Topstate International Trading Co., Ltd. Shanxi Cimm Donghai Advanced Carbon Co., Ltd. Shanxi Datong Energy Development Co., Ltd. Shanxi Foset Carbon Co Ltd. Shanxi Jiexiu Import and Export Co., Ltd. Shanxi Jinneng Group Co., Ltd. Shanxi Yunheng Graphite Electrode Co., Ltd. Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd. Shida Carbon Group. Shijaizhuang Carbon Co., Ltd. Shijiazhuang Huanan Carbon Factory. Sichuan 5-Continent Imp & Exp Co., Ltd. Sichuan Dechang Shida Carbon Co., Ltd. Sichuan GMT International Inc. Sichuan Guanghan Shida Carbon Co., Ltd. Sichuan Shida Carbon Co., Ltd. Sichuan Shida Trading Co., Ltd. Sinicway International Logistics Ltd. Sinosteel Anhui Co., Ltd. Sinosteel Corp. Sinosteel Jilin Carbon Co., Ltd. Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd. Sinosteel Jilin Carbon Plant.</p>	

	Period to be reviewed
<p>Sinosteel Sichuan Co., Ltd. SMMC Group Co., Ltd. Sure Mega (Hong Kong) Ltd. Tangshan Kimwan Special Carbon & Graphite Co., Ltd. Tengchong Carbon Co., Ltd. T.H.I. Global Holdings Corp. T.H.I. Group (Shanghai) Ltd. Tianjin (Teda) Iron & Steel Trade Co., Ltd. Tianjin Kimwan Carbon Technology and Development Co., Ltd. Tianjin Yue Yang Industrial & Trading Co., Ltd. Tianzhen Jintian Graphite Electrodes Co., Ltd. Tielong (Chengdu) Carbon Co., Ltd. UK Carbon & Graphite. United Carbon Ltd. United Trade Resources, Inc. Weifang Lianxing Carbon Co., Ltd. World Trade Metals & Minerals Co., Ltd. XC Carbon Group. Xinghe County Muzi Carbon Co., Ltd., a.k.a. Xinghe County Muzi Carbon Plant. Xinghe Xingyong Carbon Co., Ltd. Xinghe Xinyuan Carbon Products Co., Ltd. Xinyuan Carbon Co., Ltd. Xuanhua Hongli Refractory and Mineral Company. Xuchang Minmetals & Industry Co., Ltd. Xuzhou Carbon Co., Ltd. Xuzhou Electrode Factory. Xuzhou Jianglong Carbon Products Co., Ltd. Yangzhou Qionghua Carbon Trading Ltd. Yixing Huaxin Imp & Exp Co Ltd. Youth Industry Co., Ltd. Zhengzhou Jinyu Thermo-Electric Material Co., Ltd. Zibo Continent Carbon Factory. Zibo DuoCheng Trading Co., Ltd. Zibo Lianxing Carbon Co., Ltd. Zibo Wuzhou Tanshun Carbon Co., Ltd.</p>	
<p>The People's Republic of China: Uncovered Innerspring Units, A-570-928 Jietai Machinery Ltd (HK). PT Sunhere Buana International.</p>	<p>2/1/16-1/31/17</p>
<p>The People's Republic of China: Utility Scale Wind Towers, A-570-981 Alstom Sizhou Electric Power Equipment Co., Ltd. AUSKY (Shandong) Machinery Manufacturing Co., Ltd. AVIC International Renewable Energy Co., Ltd. Baotou Titan Wind Power Equipment Co., Ltd. Bashi Yuexin Logistics Development Co., Ltd. CATIC International Trade & Economic Development Ltd. Chengde Tianbao Machinery Co., Ltd. Chengxi Shipyard Co., Ltd. China WindPower Group. CleanTech Innovations Inc. CNR Wind Turbine Co., Ltd. CS Wind China Co., Ltd. CS Wind Corporation. CS Wind Tech (Shanghai) Co., Ltd. Dajin Heavy Industry Corporation. Greenergy Technology Co., Ltd. Guangdong No. 2 Hydropower Engineering Co., Ltd. Guodian United Power Technology Baoding Co., Ltd. Harbin Hongguang Boiler Group Co., Ltd. Hebei Ningqiang Group. Hebei Qiangsheng Wind Equipment Co., Ltd. Jiangsu Baolong Tower Tube Manufacture Co., Ltd. Jiangsu Baolong Electromechanical Mfg. Co., Ltd. Jiangsu Taihu Boiler Co., Ltd. Jianguyin Hengrun Ring Farging Co., Ltd. Jilin Miracle Equipment Manufacturing Engineering Co., Ltd. Jilin Tianhe Wind Power Equipment Co., Ltd (f/k/a Jilin Mingmen Wind Power Equipment Co., Ltd). Jinan Railway Vehicles Equipment Co., Ltd. Nanjing Jiangbiao Group Co., Ltd. Nantong Dongtai New Energy Equipment Co., Ltd. Nantong Hongbo Windpower Equipment Co., Ltd. Ningxia Electric Power Group. Ningxia Yinxing Energy Co. Ningxia Yinyi Wind Power Generation Co., Ltd.</p>	<p>2/1/16-1/31/17</p>

	Period to be reviewed
<p>Qingdao GeLinTe Environmental Protection Equipment Co., Ltd. Qingdao Ocean Group. Qingdao Pingcheng Steel Structure Co., Ltd. Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd. Qingdao Wuxiao Group Co., Ltd. Renewable Energy Asia Group Ltd. SDV China Nanjing. Shandong Endless Wind Turbine Technical Equipment Co., Ltd. Shandong Iraeta Heavy Industry. Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd. Shanghai Aerotech Trading International. Shanghai GE Guangdian Co., Ltd. Shanghai Taisheng Wind Power Equipment Co., Ltd. Shenyang Titan Metal Co., Ltd. Sinovel Wind Group Co., Ltd. Suihua Wuxiao Electric Power Equipment Co., Ltd. Titan (Lianyungang) Metal Product Co., Ltd. Titan Wind Energy (Suzhou) Co., Ltd. Vestas Wind Technology (China). Wuxiao Steel Tower Co., Ltd. Xinjiang Huitong (Group) Co., Ltd. Zhangjiagang Zhiyi Medical Health.</p> <p style="text-align: center;">Countervailing Duty Proceedings</p>	
<p>Republic of Korea: Cut-To-Length Carbon-Quality Steel Plate, C-580-837</p> <p>Bookuk Steel. Daewoo International Corp. Dongkuk Steel Mill Co., Ltd. Hyundai Glovis Co., Ltd. Hyundai Mipo Dockard Co., Ltd. Hyundai Steel Company. Hyuosung Corporation. Samsung C&T Corp. Samsung C&T Engineering & Construction Group. Samsung Heavy Industries. Samsung C&T Trading and Investment Group. SK Networks. Steel N People Co Ltd. Sung Jin Steel Co., Ltd.</p>	1/1/16-12/31/17
<p>Socialist Republic of Vietnam: Steel Wire Garment Hangers, C-552-813</p> <p>Angang Clothes Rack Manufacture Co. Asmara Home Vietnam. B2B Co., Ltd. Capco Wai Shing Viet Nam Co Ltd. Cong Ty Co Phan Moc AO. CTN Co Ltd. C.T.N. International Ltd. CTN Limited Company. Cty Tnhn Mtv Xnk My Phuoc. Cty Thnh San Xuat My Phuoc Long An Factory. Dai Nam Group. Dai Nam Investment JSC. Diep Son Hangers Co Ltd. Diep Son Hangers One Member Co Ltd. Dong Nam A Co Ltd. Dong Nam A Hamico Joint Stock Company. Dong Nam A Trading Co. EST Glory Industrial Ltd. Focus Shipping Corp. Godoxa Vietnam Co Ltd. Godoxa Viet Nam Ltd. HCMC General Import and Export Investment Joint Stock Company. Hongxiang Business and Product Co., Ltd. Huqhu Co., Ltd. Infinite Industrial Hanger Limited. Infinite Industrial Hanger Co Ltd. Ju Fu Co Ltd. Linh Sa Hamico Company, Ltd. Long Phung Co Ltd. Lucky Cloud (Vietnam) Hanger Co Ltd. Minh Quang Hanger. Minh Quang Steel Joint Stock Company. Moc Viet Manufacture Co., Ltd. Nam A Hamico Export Joint Stock Co.</p>	1/1/16-12/31/17

	Period to be reviewed
<p>Nghia Phoung Nam Production Company. Nguyen Haong Vu Co Ltd. N-Tech Vina Co Ltd. NV Hanger Co., Ltd. Quoc Ha Production Trading Services Co Ltd. Quyky Co., Ltd. Quyky Group. Quyky-Yangle International Co., Ltd. S.I.I.C. South East Asia Hamico Exports JSC. T.J. Co Ltd. TJ Group. Tan Dihn Enterprise. Tan Dinh Enterprise. Tan Minh Textile Sewing Trading Co., Ltd. Thanh Hieu Manufacturing Trading Co Ltd. The Xuong Co Ltd. Thien Ngon Printing Co., Ltd. Top Sharp International Trading Limited. Triloan Hangers, Inc. Tri-State Trading. Trung Viet My Joint Stock Company. Truong Hong Lao-Viet Joint Stock Co., Ltd. Uac Co Ltd. Viet Anh Imp-Exp Joint Stock Co. Viet Hanger. Viet Hanger Investment, LLC. Vietnam Hangers Joint Stock Company. Vietnam Sourcing. VNS. VN Sourcing. Yen Trang Co., Ltd.</p>	
<p>The People's Republic of China: Certain Crystalline Silicon Photovoltaic Products, C-570-011</p> <p>Baoding Jiasheng Photovoltaic Technology Co Ltd. Baoding Tianwei Yingli New Energy Resources Co., Ltd. Beijing Tianneng Yingli New Energy Resources Co Ltd. BYD (Shangluo) Industrial Co., Ltd. Canadian Solar Inc. Canadian Solar International, Ltd. Canadian Solar Manufacturing (Changshu), Inc. Canadian Solar Manufacturing (Luoyang), Inc. Chint Solar (Zhejiang) Co., Ltd. Changzhou Trina Solar Energy Co., Ltd. Hainan Yingli New Energy Resources Co., Ltd. Hefei JA Solar Technology Co., Ltd. Hengshui Yingli New Energy Resources Co., Ltd. Jinko Solar Co., Ltd. Jinko Solar Import and Export Co., Ltd. Lixian Yingli New Energy Resources Co., Ltd. Perlight Solar Co., Ltd. Risen Energy Co., Ltd. Shanghai BYD Co., Ltd. Shanghai JA Solar Technology Co., Ltd. Shenzhen Jiawei Photovoltaic Lighting Co., Ltd. Shenzhen Sungold Solar Co., Ltd. Shenzhen Yingli New Energy Resources Co., Ltd. Sunny Apex Development Limited. Tianjin Yingli New Energy Resources Co., Ltd. Trina Solar (Changzhou) Science and Technology Co., Ltd. Wuxi Suntech Power Co., Ltd. Yingli Energy (China) Co., Ltd. Yingli Green Energy International Trading Company Limited. Zhejiang Jinko Solar Co., Ltd.</p>	1/1/16-12/31/16
<p>The People's Republic of China: Utility Scale Wind Towers, C-570-982</p> <p>Alstom Sizhou Electric Power Equipment Co., Ltd. AUSKY (Shandong) Machinery Manufacturing Co., Ltd. AVIC International Renewable Energy Co., Ltd. Baotou Titan Wind Power Equipment Co., Ltd. Bashi Yuexin Logistics Development Co., Ltd. CATIC International Trade & Economic Development Ltd. Chengde Tianbao Machinery Co., Ltd. Chengxi Shipyard Co., Ltd. China WindPower Group.</p>	1/1/16-12/31/16

	Period to be reviewed
<p>CleanTech Innovations Inc. CNR Wind Turbine Co., Ltd. CS Wind China Co., Ltd. CS Wind Corporation. CS Wind Tech (Shanghai) Co., Ltd. Dajin Heavy Industry Corporation. Greenergy Technology Co., Ltd. Guangdong No. 2 Hydropower Engineering Co., Ltd. Guodian United Power Technology Baoding Co., Ltd. Harbin Hongguang Boiler Group Co., Ltd. Hebei Ningqiang Group. Hebei Qiangsheng Wind Equipment Co., Ltd. Jiangsu Baolong Tower Tube Manufacture Co., Ltd. Jiangsu Baolong Electromechanical Mfg. Co., Ltd. Jiangsu Taihu Boiler Co., Ltd. Jiangyin Hengrun Ring Farging Co., Ltd. Jilin Miracle Equipment Manufacturing Engineering Co., Ltd. Jilin Tianhe Wind Power Equipment Co., Ltd (f/k/a Jilin Mingmen Wind Power Equipment Co., Ltd). Jinan Railway Vehicles Equipment Co., Ltd. Nanjing Jiangbiao Group Co., Ltd. Nantong Dongtai New Energy Equipment Co., Ltd. Nantong Hongbo Windpower Equipment Co., Ltd. Ningxia Electric Power Group. Ningxia Yinxing Energy Co. Ningxia Yinyi Wind Power Generation Co., Ltd. Qingdao GeLinTe Environmental Protection Equipment Co., Ltd. Qingdao Ocean Group. Qingdao Pingcheng Steel Structure Co., Ltd. Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd. Qingdao Wuxiao Group Co., Ltd. Renewable Energy Asia Group Ltd. SDV China Nanjing. Shandong Endless Wind Turbine Technical Equipment Co., Ltd. Shandong Iraeta Heavy Industry. Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd. Shanghai Aerotech Trading International. Shanghai GE Guangdian Co., Ltd. Shanghai Taisheng Wind Power Equipment Co., Ltd. Shenyang Titan Metal Co., Ltd. Sinovel Wind Group Co., Ltd. Suihua Wuxiao Electric Power Equipment Co., Ltd. Titan (Lianyungang) Metal Product Co., Ltd. Titan Wind Energy (Suzhou) Co., Ltd. Vestas Wind Technology (China). Wuxiao Steel Tower Co., Ltd. Xinjiang Huitong (Group) Co., Ltd. Zhangjiagang Zhiyi Medical Health.</p>	

⁴ On December 15, 2016, Avanti Frozen Foods Private Limited was found to be the successor-in-interest to Avanti Feeds Limited. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India*, 81 FR 90774 (December 15, 2016).

⁵ Shrimp produced and exported by Devi Sea Foods (Devi) was excluded from the AD Indian order effective February 1, 2009. See *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part*, 75 FR 41813, 41814 (July 19, 2010). Accordingly, we are initiating this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

⁶ This company is conditionally under review pending the expiration of any further appeal associated with the litigation pertaining to the final

determination of sales at less than fair value regarding this company. 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).

⁷ Shrimp produced and exported by Marine Gold Products Ltd (Marine Gold) were excluded from the AD Thailand order effective February 1, 2012. See *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of Order (in Part); 2011–2012*, 78 FR 42497, 42499 (July 16, 2013). Accordingly, we are initiating this administrative review with respect to Marine Gold only for shrimp produced in Thailand where Marine Gold acted as either the manufacturer or exporter (but not both).

⁸ In past reviews, the Department has treated these companies as a single entity. See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final*

Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015, 81 FR 40671 (June 22, 2016). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review. Additionally, on January 5, 2016, the Department found that Thai Union Group Public Co., Ltd is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016).

⁹ In the final determination of the underlying investigation, we treated Jinko Solar Co Ltd and Jinko Solar Import and Export Co., Ltd together with Renesola Jiangsu Ltd and Renesola Zhejiang Ltd as a single entity. See *Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 76970 (December 23, 2014).

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling

¹⁰This *Order* was revoked with respect to merchandise exported by Allied Pacific (HK) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd., and manufactured by Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd., or Allied Pacific Aquatic Products (Zhongshan) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd. *See Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders*, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

¹¹This *Order* was revoked with respect to merchandise exported by Shantou Red Garden Foodstuff Co., Ltd., or Red Garden Food Processing Co., Ltd., and produced by Red Garden Food Processing Co., Ltd., or Chaoyang Jindu Hengchang Aquatic Products Enterprise Co., Ltd., or Raoping County Longfa Seafoods Co., Ltd., or Meizhou Aquatic Products Quick-Frozen Industry Co., Ltd., or Shantou Jinyuan District Mingfeng Quick-Frozen Factory, or Shantou Long Feng Foodstuffs Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders*, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

¹²This *Order* was revoked with respect to merchandise exported by Yelin Enterprise Co Hong Kong or Shantou Yelin Frozen Seafood Co., Ltd., and manufactured by Shantou Yelin Frozen Seafood Co., Ltd., or Yangjiang City Yelin Hoi Tat Quick Frozen Seafood Co., Ltd., or Fuqing Yihua Aquatic Food Co., Ltd., or Shantou Jinyuan District Mingfeng Quick-Frozen Factory. *See Certain Frozen Warmwater Shrimp from the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders*, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

¹³This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Guolian Aquatic Products Co., Ltd. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China*, 70 FR 5149, 5152 (February 1, 2005). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

¹⁴This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Regal Integrated Marine Resources Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Administrative Review; 2011–2012*, 78 FR 56209, 56210 (September 12, 2013). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures “gap” period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in the Department's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

The Department's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is

submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.¹⁵ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.¹⁶ The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning

¹⁵ *See* section 782(b) of the Act.

¹⁶ *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”); *see also* the frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf.

U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: April 4, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017-07104 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No: 161207999-6999-02]

Reopening of Submission Period for National Institute of Standards and Technology Prize Competition—Reusable Abstractions of Manufacturing Processes (RAMP) Challenge

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice, reopening of submission period.

SUMMARY: The National Institute of Standards and Technology (NIST) is reopening the deadline for submitting entries and for resubmitting entries to the Reusable Abstractions of Manufacturing Processes (RAMP) Competition from March 20, 2017, to April 9, 2017. All entries submitted between December 19, 2016, and April 9, 2017, will be deemed timely and will

be given full consideration. If, however, a person wishes to resubmit their entry, they may do so until the new deadline of April 9, 2017, and the new submission will replace the original submission. Entries submitted after the revised submission deadline of April 9, 2017, will not be reviewed or considered for the award.

DATES: Entries must be received no later than 11:59 p.m. Eastern Time April 9, 2017. Entries received between December 19, 2016 and April 9, 2017 shall be deemed timely and will be given full consideration.

ADDRESSES: Entries must be submitted electronically. To submit an entry, the participant must first create an account at challenge.gov and visit the Event Web site: <https://www.challenge.gov/challenge/ramp-reusable-abstractions-of-manufacturing-processes/>.

FOR FURTHER INFORMATION CONTACT: Questions about the RAMP prize competition can be directed to the RAMP Competition Manager, Swee Leong at (301) 975-5426. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975-NIST.

SUPPLEMENTARY INFORMATION: On December 19, 2016, the National Institute of Standards and Technology (NIST) announced the Reusable Abstractions of Manufacturing Processes (RAMP) Challenge, with support from ASTM International, the National Science Foundation (NSF), and the American Society of Mechanical Engineers (ASME) Manufacturing Science and Engineering Conference (MSEC) Organizing Committee (81 FR 91912). The purpose of the RAMP Challenge is to familiarize the community with a recent standard for modeling manufacturing processes that was developed under the ASTM's E60.13 Subcommittee on Sustainable Manufacturing. The RAMP Challenge calls on participants (either as an individual or as a team) to model any manufacturing process and demonstrate application of the ASTM E3012-16 Unit Manufacturing Process (UMP) representation for purposes of information sharing and sustainability assessment. That announcement may be found at <https://www.federalregister.gov/d/2016-30437>.

NIST is reopening the deadline for submitting entries and for resubmitting entries to the RAMP Competition from March 20, 2017, to April 9, 2017. All entries submitted between December 19, 2016, and April 9, 2017, will be deemed timely and will be given full consideration. If, however, a person wishes to resubmit their entry, they may do so until the new deadline of April 9,

2017, and the new submission will replace the original submission. Entries submitted after the revised submission deadline of April 9, 2017, will not be reviewed or considered for the award.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017-07037 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE60

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Gustavus Ferry Terminal Improvements Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the Alaska Department of Transportation and Public Facilities (ADOT&PF) to incidentally harass seven species of marine mammals during activities related to the implementation of a Ferry Terminal Improvements Project in Gustavus, Alaska.

DATES: This authorization is valid from December 15, 2017 through December 14, 2018.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of ADOT&PF's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: www.nmfs.noaa.gov/pr/permits/incidental/construction.htm. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of

marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS’ review of an application followed by a 30-day public notice and comment period on any proposed authorization for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine

mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).”

Summary of Request

On July 31, 2015, NMFS received an application from the ADOT&PF for the taking of marine mammals incidental to reconstructing the existing ferry terminal at Gustavus, Alaska, referred to as the Gustavus Ferry Terminal. On April 15, 2016, NMFS received a revised application. NMFS determined that the application was adequate and complete on April 20, 2016. ADOT&PF proposed to conduct in-water work that may incidentally harass marine mammals (i.e., pile driving and removal). This IHA would be valid from December 15, 2017 through December 14, 2018.

Proposed activities included as part of the Gustavus Ferry Terminal Improvements Project with potential to affect marine mammals include vibratory pile driving and pile removal, as well as impact pile driving.

Species with the expected potential to be present during the project timeframe include harbor seal (*Phoca vitulina*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall’s porpoise (*Phocoenoides dalli*), killer whale (*Orcinus orca*), humpback whale (*Megaptera novaeangliae*), and minke whale (*Balaenoptera acutorostrata*).

Description of the Specified Activity

Overview

We provided a description of the proposed action in our **Federal Register** notice announcing the proposed authorization (81 FR 40852; June 23, 2016). Please refer to that document; we provide only summary information here.

The ADOT&PF is modernizing its Gustavus Ferry Terminal in Gustavus, Alaska. The purpose of the project is to improve the vehicle transfer span and dock such that damage during heavy storms is prevented, and to improve the safety of vehicle and pedestrian transfer operations. ADOT&PF requested an IHA for work that includes removal of the existing steel bridge float and restraint structure and replacing it with two steel/concrete bridge lift towers capable of elevating the relocated steel transfer bridge above the water when not in use. Each tower would be supported by four 30-inch steel piles.

Dates and Duration

Pile installation and extraction associated with the Gustavus Ferry Terminal project will begin no sooner than December 15, 2017 and will be completed no later than December 14, 2018 (one year following IHA issuance). Project activities are proposed to occur during two time-periods. The first period will occur in spring of 2018, with pile driving/removal and in-water work occurring during the period of March 1, 2018 through May 31, 2018. The second period is scheduled for fall of 2018, with pile driving/removal and in-water work occurring during the period of September 1, 2018 through November 30, 2018.

Pile driving and removal is estimated to occur for a total of about 171 hours over the course of 16 to 50 days. For the purposes of this analysis, 50 days of driving will be assumed. Impact pile driving will take place for up to 57 hours for approximately three hours per day while vibratory driving will require up to 114 hours and require up to 6 hours per day. Fifty-seven piles will be installed. Sixteen of these piles will be temporary and will be removed. The pile driving schedule is shown in Table 1.

TABLE 1—PILE DRIVING SCHEDULE

Description	Project components							
	Dock extension	Bridge abutment	Lift towers	Access float	Log float	Pile removal	Piles installed/ total piles	Installation/ removal per day
# of Piles	34	6	8	6	3	16	57/73	3 piles/day (maximum).
Pile Size (Diameter)	24-inch	24-inch	30-inch	30-inch	12.75-inch	12.75-inch.		
Total Strikes (Impact)	20,400	3,600	4,800	3,600	1,800	0	34,200	1,800 blows/day.
Total Impact Time	34 hrs	6 hrs	8 hrs	6 hrs	3 hrs	0	57 hrs	3 hrs/day.
Total Vibratory Time	54 hrs	9 hrs	13 hrs	9 hrs	5 hrs	24 hrs	114 hrs	6 hrs/day.

Specific Geographic Region

The proposed activities will occur at the Gustavus Ferry Terminal located in

Gustavus, Alaska on the Icy Passage water body in Southeast Alaska (See Figures 1 and 2 in the application).

Comments and Responses

A notice of NMFS’s proposal to issue an IHA to ADOT&PF was published in

the **Federal Register** on June 23, 2016 (81 FR 40852). That notice described, in detail, ADOT&PF's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received only one set of comments, from the Marine Mammal Commission (Commission); the Commission's recommendations and our responses are provided here, and the comments have been posted online at: www.nmfs.noaa.gov/pr/permits/incidental/construction.htm. Please see the Commission's letter for background and rationale regarding the recommendations, which are listed below.

Comment 1: The Commission recommended that NMFS use a sound source level higher than the 154.3 dB re 1 μ Pa at 10 m that was recorded at Kake Harbor by ADOT&PF for deriving disturbance zone isopleths during vibratory driving of 30-inch steel piles at Gustavus. The Commission was concerned that this value was considerably lower than other sound source levels (SSLs) associated with driving piles of similar type and size.

Response: ADOT&PF implemented sound source verification (SSV) measurements at Kake Harbor, Alaska and proposed to use this information as a proxy SSL for the Gustavus Ferry Terminal project. The results determined a SSL of 154.3 dB re 1 μ Pa at 10 m. This value was further modified to 157.7 dB re 1 μ Pa after the original findings were re-analyzed to include additional data from a single restraint pile that had not been included in the initial results. NMFS agrees that this SSL is lower than others that have been documented in datasets generated from locations outside Alaska. However, ADOT&PF will be using the same types of vibratory and impact hammers at Gustavus as were used at Kake. Additionally, while the substrate at Gustavus is not identical to those at Kake, both are similarly composed of relatively fine-grained sediments. The project at Kake was also using pile types and sizes that are comparable to those planned for use at Gustavus. Finally, NMFS will require ADOT&PF to conduct SSV testing as a monitoring requirement. If the recorded SSLs at Gustavus are greater than those measured at Kake, ADOT&PF will increase the isopleths as appropriate.

Comment 2: The Commission recommended that NMFS ensure that the estimated numbers of takes are adequate if the amended Level B harassment zone calculated from a

source greater than 157.7 dB re 1 μ Pa extends into Icy Strait.

Response: NMFS used a SSL of 157.7 dB re 1 μ Pa to calculate the Level B harassment isopleth, which does not extend into Icy Strait. If the Level B harassment zone needs to be increased after ADOT&PF conducts on-site SSV verification testing, NMFS will re-evaluate numbers of estimated takes as appropriate.

Comment 3: The Commission recommended that NMFS compile available *in-situ* pile driving and removal data into a central database. This would enable analysts to crosscheck data in situations like the one discussed herein, as well as in situations when applicants are having difficulty determining proxy source levels.

Response: NMFS agrees with the Commission that a database would be of value and has begun compiling underwater sound-related information.

Comment 4: The Commission recommends that NMFS require every applicant to specify the sediment composition, water depth (in terms of hydrophone placement and bathymetry), duration over which the pressure was averaged for sound pressure level root mean square (SPLrms) metrics, and median values in all future hydroacoustic monitoring reports.

Response: NMFS will require every applicant to specify the sediment composition and water depth (in terms of hydrophone placement and bathymetry) for SSV. In addition, NMFS will require the applicants to provide median and averaged values of sound source measurements. However, duration over which the pressure was averaged for SPLrms values can vary for impact pile driving since NMFS requires that SPLrms be computed using a 90 percent energy window. Therefore, NMFS will only require the applicant to provide the duration from vibratory pile driving measurements.

Comment 5: The Commission recommended that NMFS ensure consistency regarding integration of timeframes used for SPLrms measurements (e.g., 1-second averages, maximum over 10 seconds, or maximum over 30 seconds) in all future hydroacoustic monitoring reports.

Response: In 2012, NMFS worked with scientists from the University of Washington and stakeholders from the Washington State Department of Transportation to develop a set of guidance for data collection methods to characterize impact and vibratory pile driving source levels relevant to marine mammals. For vibratory pile driving, the

guidance recommends taking 10 second averages across the whole event and averaging all the 10 second periods to calculate the SPLrms value. For impact pile driving, the guidance recommends characterizing overall dBrms levels by integrating sound for each waveform across 90% of the acoustic energy in each wave (using the 5–95 percentiles to establish the 90% criterion) and averaging across all waves in the pile-driving event. NMFS will require these methods for vibratory and impact pile driving sound source measurements in the future.

Description of Marine Mammals in the Area of the Specified Activity

There are seven marine mammal species known to occur in the vicinity of the project area. Two of the species are known to occur near the Gustavus Ferry terminal; the harbor seal and Steller sea lion. The remaining five species may occur in Icy Passage but less frequently and farther from the ferry terminal: Harbor porpoise, Dall's porpoise, killer whale, humpback whale, and minke whale.

We reviewed ADOT&PF's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 of ADOT&PF's application as well as our notice of proposed IHA published in the **Federal Register** (81 FR 40852; June 23, 2016).

Please also refer to NMFS' Web site (www.nmfs.noaa.gov/pr/species/mammals) for generalized species accounts that provide information regarding the biology and behavior of the marine resources that occur in proximity to the project area.

Table 2 lists marine mammal stocks that could occur near the project area that may be subject to harassment and summarizes key information regarding stock status and abundance. Note that the listed status of the humpback whale was updated in 2016 after NMFS conducted a global status review (81 FR 62259; September 8, 2016). The humpback whale was listed as endangered under the Endangered Species Conservation Act (ESCA) on December 2, 1970 (35 FR 18319). Congress replaced the ESCA with the Endangered Species Act (ESA) in 1973, and humpback whales continued to be listed as endangered. Under the revised listing status, NMFS identified 14 distinct population segments (DPS). Of these 14 DPSs, four remain listed as endangered, one is listed as threatened, and the remaining nine were identified as not warranted for listing. For humpback whales found in southeast Alaska, NMFS anticipates that the vast

majority (approximately 94 percent) would be from the non-listed Hawaii DPS. A small proportion (approximately 6 percent) of whales occurring in southeast Alaska are expected to be of

the Mexico DPS, which remains listed as threatened. Please see NMFS' Stock Assessment Reports (SAR), available at www.nmfs.noaa.gov/pr/sars, for more

detailed accounts of these stocks' status and abundance.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

Common name	Scientific name	Stock abundance estimate ¹	ESA status	MMPA status	Frequency of occurrence ²
Harbor seal	<i>Phoca vitulina</i>	7,210 (Glacier Bay/Icy Strait).	Not listed	Not Strategic, non-depleted	Likely.
Steller sea lion	<i>Eumetopias jubatus</i>	50,983 (western distinct population segment in Alaska)/71,562 (eastern stock).	Endangered (western Distinct Population Segment).	Strategic, depleted (western DPS)/Not Strategic, non-depleted (eastern DPS).	Likely.
Dall's porpoise	<i>Phocoenoides dalli</i>	83,400	Not listed	Not Strategic, non-depleted	Infrequent.
Harbor porpoise	<i>Phocoena phocoena</i>	11,146 (Southeast Alaska)	Not listed	Strategic, non-depleted	Likely.
Humpback whale (Central North Pacific Stock).	<i>Megaptera novaeangliae</i>	10,103	Threatened (Mexico DPS)/ Not listed (Hawaii DPS).	Strategic, depleted (Mexico DPS)/Not Strategic, non-depleted (Hawaii DPS).	Infrequent.
Killer whale	<i>Orcinus orca</i>	261 (Northern resident)/ 587 (Gulf of Alaska transient)/243 (West coast transient).	Not listed	Not strategic, non-depleted (all stocks).	Infrequent.
Minke whale	<i>Balaenoptera acutorostrata</i>	Unknown	Not listed	Not Strategic/non-depleted	Infrequent.

¹ NMFS marine mammal stock assessment reports at: <http://www.nmfs.noaa.gov/pr/sars/species.htm>.

² *Infrequent*: Confirmed, but irregular sightings. *Likely*: Confirmed and regular sightings of the species in the area year-round.

Potential Effects of the Specified Activity on Marine Mammals

The effects of underwater noise from pile driving activities for the Ferry Terminal Improvements Project have the potential to result in harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (81 FR 40852, June 23, 2016) included a discussion of the effects of anthropogenic noise on marine mammals. Therefore, that information is not repeated here; please refer to the **Federal Register** notice for that information. No instances of serious injury or mortality are expected as a result of the pile driving activities.

Anticipated Effects on Habitat

The main impact associated with the ADOT&PF project would be temporarily elevated sound levels and the associated direct effects on marine mammals. The project would not result in permanent impacts to habitats used directly by marine mammals but may have potential short-term impacts to food sources such as forage fish, and minor impacts to the immediate substrate resulting in a temporary, localized increase in turbidity. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (81 FR 40852, June 23, 2016), therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must

set forth the permissible methods of taking pursuant to such activity, "and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking" for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat (50 CFR 216.104(a)(11)). For the proposed project, ADOT&PF worked with NMFS to develop the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, and to shut down operations and monitor marine mammals within designated zones of influence corresponding to NMFS' current Level A and B harassment thresholds.

In addition to the measures described later in this section, ADOT&PF will employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, and marine mammal monitoring team, prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine

mammal monitoring protocol, and operational procedures;

(b) For in-water heavy machinery work other than pile driving (e.g., standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (i.e., stabbing the pile); and

(c) To limit the amount of waterborne noise, a vibratory hammer will be used for initial driving, followed by an impact hammer to proof the pile to required load-bearing capacity.

Establishment of Shutdown Zone—For all pile driving activities, ADOT&PF will establish a shutdown zone. The purpose of the shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). In this case, shutdown zones are intended to contain areas in which SPLs equal or exceed acoustic injury criteria, based on NMFS' new acoustic technical guidance published in the **Federal Register** on August 4, 2016 (81 FR 51693). The shutdown zones vary for specific species. For impact driving, the shutdown zone extends to 550 m for humpback whale and minke whale; for harbor seal, harbor porpoise and Dall's porpoise, the zone

extends to 100 m; and for killer whale and Steller sea lion, the zone is set at 25 m. Note that for harbor seal, harbor porpoise, and Dall's porpoise, the injury zones extend beyond the designated shutdown zones, resulting in potential for some Level A take for these species. This approach will allow operations to continue when animals from these three species are sighted beyond the 100 m shutdown zone. If the shutdown zone extended out to the full PTS isopleth (282.3 m for harbor seal; 628 m for harbor porpoise and Dall's porpoise) for these species, it is likely that impact driving operations would have to be shut down continuously due to the relatively high abundance of animals in the project area. Permitting Level A take will allow the project to be completed in a relatively expedient manner while impacting a limited number of animals. For vibratory driving, the shutdown zone is 20 m for harbor porpoise, Dall's porpoise, humpback whale and minke whale. The shutdown zone for killer whale, harbor seal and Steller sea lion is 10 m during vibratory driving. The derivation of these shutdown isopleths is described in the *Estimated Take* section.

Establishment of Level A Take Zone—ADOT&PF will establish Level A take zones which are areas beyond the shutdown zones where animals may be exposed to sound levels that could result in permanent threshold shift (PTS).

Establishment of Disturbance Zones—ADOT&PF will establish Level B disturbance zones or zones of influence (ZOI) which, according to current NMFS guidance, are areas where SPLs equal or exceed 160 dB rms for impact driving and 120 dB rms for vibratory driving. Disturbance zones provide utility for monitoring by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity.

Temporal and Seasonal Restrictions—The following restrictions will apply to all pile driving activities:

(a) Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;

(b) All in-water construction will be limited to the periods between March 1 and May 31, 2018, and September 1 and November 30, 2018; and

(c) Starting March 1, 2018 through May 31, 2018 and September 1, 2018, through September 30, 2018, all pile driving operations will end at 4 p.m. as

charter fishing vessels return to the dock. Steller sea lions are attracted and habituated to the project area to forage on scraps from the charter boats that are returning to the dock and cleaning fish in the late afternoon (pers. Comm. Chris Gabriele (Hart Crowser 2015)). Late afternoon is likely to be the period of the day when the highest numbers of sea lions are present in the action area, so stopping operations will limit exposure to concentrated higher numbers of Steller sea lions. Because different numbers of fishing charter vessels may be operating each day and returning at various times, pile driving will stop if 5 or more Steller sea lions are observed following charter fishing vessels to the dock prior to 4 p.m.

Soft Start—The use of a soft-start procedure is believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at 40 percent energy, each strike followed by no less than a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will also be conducted whenever impact driving commences after 30 or more minutes since the last impact pile driving action.

Sound Attenuation Devices—During impact pile driving, contractors will be required to use pile caps. Pile caps reduce the sound generated by the pile, although the level of reduction can vary.

Mitigation Conclusions

We have carefully evaluated ADOT&PF's mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the

accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal);

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above);

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above);

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1 above);

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time; and

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of ADOT&PF's measures, including information from monitoring of implementation of mitigation measures very similar to those described here under previous IHAs from other marine construction projects, we have determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine

mammals that are expected to be present in the action area. ADOT&PF submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Appendix B of the Application.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) Affected species (*e.g.*, life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological);
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock; and
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

Monitoring Measures

The monitoring measures described below for the Final IHA have been updated somewhat from those listed in the notice of proposed authorization, to reflect NMFS' current standard monitoring measures for applicable IHAs. These updates do not change the substance, scope, or anticipated effectiveness of the monitoring measures.

Monitoring Protocols—Monitoring will be conducted by qualified marine mammal observers (MMOs), who are trained biologists, with the following minimum qualifications:

- Independent observers (*i.e.*, not construction personnel) are required;
- At least one observer must have prior experience working as an observer;
- Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;
- Ability to conduct field observations and collect data according to assigned protocols.
- Experience or training in the field identification of marine mammals,

including the identification of behaviors;

- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary; and
- NMFS will require submission and approval of observer CVs.

In order to effectively monitor the pile driving monitoring zones, the MMOs will be positioned at the best practical vantage points. The monitoring position may vary based on pile driving activities and the locations of the piles and driving equipment. These may include the catwalk at the ferry terminal, the contractor barge, on a vessel, or another location deemed to be more advantageous. The monitoring location will be identified with the following characteristics: (1) Unobstructed view of pile being driven; (2) Unobstructed view of all water within a 3,265 m (vibratory driving) and 2,090 m (impact driving) radius of each pile, although it is understood that monitoring may be impaired at longer distances; (3) Clear view of pile driving operator or construction foreman in the event of radio failure; and; (4) Safe distance from pile driving activities in the construction area.

A total of two observers will be on site and actively observing the shutdown and disturbance zones during all pile driving and extraction activities. Observers will use their naked eye with the aid of big-eye binoculars and a spotting scope to search continuously for marine mammals during all pile driving and extraction activities. One observer will always be positioned on the dock looking out to monitor the zone that is currently in effect. A second observer will be located on either the dock supplementing efforts of the first observer in monitoring from that point, or, when weather and safety conditions permit, on a vessel transiting the observation zones. In the **Federal Register** notice for the proposed IHA, NMFS had recommended that

ADOT&PF coordinate with the NPS and whale-watching charters to augment their land-based monitoring with information from boats in Icy Strait/Passage. However, most NPS surveys and whale-watching charters occur outside of the designated work windows for this project (*i.e.*, September through November and March through May). Therefore, this protocol has been removed as a monitoring requirement under this IHA. However, monitoring will be augmented through the use of two on-site observers, rather than the one on-site observer required under the proposed IHA.

The following additional measures apply to visual monitoring:

- Monitoring will begin 30 minutes prior to pile driving. This will ensure that all marine mammals in the monitoring zone are documented and that no marine mammals are present in the injury zone;
- If a marine mammal comes within or approaches the shutdown zone, pile driving operations shall cease. Pile driving will only commence once observers have declared the shutdown zone clear of the marine mammals or if it has not been seen in the shutdown zone for 30 minutes for cetaceans or 15 minutes for pinnipeds. Their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.*, when not obscured by dark, rain, fog, etc.);
- When a marine mammal is observed, its location will be determined using a rangefinder to verify distance and a GPS or compass to verify heading;
- The MMOs will record any cetacean or pinniped present in the injury zone. The Level A zone extends out to 630 m from the site of impact pile driving activity for harbor porpoise and Dall's porpoise. The Level A zone for harbor seals during impact driving is set at 285 m. There are no Level A take zones applicable to other species for which take is authorized.
- The MMOs will record any cetacean or pinniped present in the disturbance zone. For impact driving the Level B harassment area encompasses a radius of 2,090 m from the site of pile driving. During vibratory driving radius of the Level B harassment area extends to 3,265 m.
- At the end of the pile driving day, post-construction monitoring will be conducted for 30 minutes beyond the cessation of pile driving;
- If any marine mammal species are encountered during activities that are not listed in Table 1 for authorized

taking and are likely to be exposed to SPLs greater than or equal to 160 dB re 1 μ Pa (rms) for impact driving and 120 dB re 1 μ Pa (rms) for vibratory driving, then the ADOT&PF must stop pile driving activities and report observations to NMFS' Office of Protected Resources;

- If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal shutdown zone (e.g., excessive wind or fog), pile installation and removal will cease. Pile driving will not be initiated until the entire shutdown zone is visible.

Data Collection

Observers are required to use approved data forms. Among other pieces of information, ADOT&PF will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the ADOT&PF will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information will be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any;
- Weather parameters (e.g., percent cover, visibility);
- Water conditions (e.g., sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

Sound Source Verification

SSV testing of impact and vibratory pile driving will be conducted for this project within seven days of initiating underwater pile driving work. The monitoring plan will be in agreement with a NMFS document titled "Guidance Document: Data Collection

Methods to Characterize Impact and Vibratory Pile Driving Source Levels Relevant to Marine Mammals" dated January 31, 2012. The SSV will be conducted by an acoustical firm with prior experience conducting SSV tests in Alaska. NMFS must approve the acoustic monitoring plan. Results will be sent to NMFS no later than 14 days after field-testing has been completed. If necessary, the shutdown, Level A, and Level B harassment zones will be adjusted to meet MMPA requirements within 7 days of NMFS receiving field results.

Reporting

ADOT&PF will notify NMFS prior to the initiation of the pile driving activities and will provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

Estimated Take

This section includes an estimate of the number of incidental "takes" proposed for authorization pursuant to this IHA, which will inform both NMFS' consideration of whether the number of takes is "small" and the negligible impact determination.

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as: ". . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment)."

No serious injury or mortality is anticipated to result from this activity. Limited take of three species of marine mammal (i.e., harbor seal, harbor porpoise, and Dall's porpoise) by Level A harassment (injury) is authorized due to potential auditory injury that cannot reasonably be prevented through mitigation. Mitigation zones are expected to reduce Level A harassment for these three species and prevent

Level A harassment for all other species. Level B harassment (behavioral disturbance) is expected to occur and take is authorized for the numbers identified below.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound.

ADOT&PF has requested authorization for the incidental taking of small numbers of marine mammals near the Gustavus Ferry Terminal that may result from impact pile driving, vibratory pile driving and vibratory pile removal. In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by injury or behavioral harassment might occur. These thresholds are used to estimate when injury or harassment may occur.

Distance to Sound Thresholds

The sound field in the project area is the existing ambient noise plus additional construction noise from the project. The primary components of the project expected to affect marine mammals are the sounds generated by impact pile driving, vibratory pile driving, and vibratory pile removal.

In order to calculate distances to the Level A and Level B sound thresholds, NMFS used acoustic monitoring data that had been collected at the Kake Ferry Terminal by ADOT&PF. ADOT&PF implemented SSV measurements at Kake Harbor, Alaska and used this information as a proxy SSL for the Gustavus Ferry Terminal project. The results determined a SSL of 157.7 dB re 1 μ Pa rms at 10 m for vibratory driving, 194.8 dB re 1 μ Pa rms

at 10 m for impact driving, and single strike/shot sound exposure level (SEL) of 179.3 dB. These SSLs are different than those found in the notice of proposed authorization. The Kake Harbor findings were re-analyzed to include additional data from a single restraint pile that had not been included in the original notice, resulting in elevated SSLs and larger Level A and Level B isopleths associated with the planned impact and vibratory driving.

The formula below is used to calculate underwater sound propagation. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10} (R_1/R_2)$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R₁ = the distance of the modeled SPL from the driven pile, and

R₂ = the distance from the driven pile of the initial measurement.

NMFS typically recommends a default practical spreading loss of 15 dB per tenfold increase in distance. ADOT&PF analyzed the available underwater acoustic data utilizing the practical spreading loss model.

On August 4, 2016, NMFS released its Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Guidance, available at <http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm>). This new guidance established new thresholds for predicting auditory injury, which equates to Level A harassment under the MMPA. In the **Federal Register** notice (81 FR 51694), NMFS explained the approach it would take during a transition period, wherein we balance the need to consider this new best available science with the fact that some applicants have already committed time and resources to the development of analyses based on our previous guidance and have constraints that preclude the recalculation of take estimates, as well as where the action is in the agency's decision-making

pipeline. In that Notice, we included a non-exhaustive list of factors that would inform the most appropriate approach for considering the new Guidance, including: The scope of effects; how far in the process the applicant has progressed; when the authorization is needed; the cost and complexity of the analysis; and the degree to which the guidance is expected to affect our analysis. In this case, ADOT&PF initially submitted a request for authorization on June 30, 2015. A revised application was submitted on April 15, 2016. A **Federal Register** notice announcing the proposed authorization was published on June 23, 2016 (81 FR 40852). Under the new Guidance, NMFS determined that there is a greater likelihood of auditory injury for low-frequency cetaceans (*i.e.*, humpback whale, minke whale); high-frequency cetaceans (*i.e.*, harbor porpoise, Dall's porpoise); and Phocid pinnipeds (*i.e.*, harbor seals) during impact driving than was considered in our notice of proposed authorization (81 FR 40852). In order to address this likelihood, we increased the required shutdown zones for humpback and minke whales, harbor porpoise, Dall's porpoise, and harbor seals. In addition, to account for the potential that harbor seals, harbor porpoises and Dall's porpoises may enter into the Level A take zones that exists beyond the designated shutdown zone, we authorize the taking by Level A harassment of limited numbers of these species. In summary, we have considered the new Guidance and believe that the likelihood of injury is adequately addressed in the analysis contained herein and appropriate protective measures are in place in the IHA.

The calculation of the Level A harassment zones utilized the methods presented in Appendix D of the Guidance, and the accompanying User Spreadsheet. The Guidance provides updated PTS onset thresholds using the cumulative SEL (SEL_{cum}) metric, which incorporates marine mammal auditory weighting functions, to identify the received levels, or acoustic thresholds, at which individual marine mammals are predicted to experience changes in their hearing sensitivity for acute, incidental exposure to all underwater anthropogenic sound sources. The

Guidance (Appendix D) and its companion User Spreadsheet provide alternative methodology for incorporating these more complex thresholds and associated weighting functions.

The User Spreadsheet accounts for effective hearing ranges using Weighting Factor Adjustments (WFAs), and ADOT&PF's application uses the recommended values for vibratory and impact driving therein. NMFS' new acoustic thresholds use dual metrics of SEL_{cum} and peak sound level (PK) for impulsive sounds (*e.g.*, impact pile driving) and SEL_{cum} for non-impulsive sounds (*e.g.*, vibratory pile driving) (Table 3). ADOT&PF used source level measurements from similar pile driving events and, using the User Spreadsheet, applied the updated PTS onset thresholds for impulsive PK and SEL_{cum} assuming 600 strikes per pile and installation of 3 piles per day to determine distance to the isopleths for PTS onset for impact pile driving. For vibratory pile driving, ADOT&PF used the User Spreadsheet to determine isopleth estimates for PTS onset using the cumulative sound exposure level metric (L_E) assuming a driving time of up to 6 hours per day. In determining the cumulative sound exposure levels, the Guidance considers the duration of the activity, the sound exposure level produced by the source during one working day, and the effective hearing range of the receiving species. In the case of the dual metric acoustic thresholds (L_{pk} and L_E) for impulsive sound, the larger of the two isopleths for calculating PTS onset is used. These values were then used to develop mitigation measures for proposed pile driving activities (Table 3).

NMFS's new acoustic guidance established new thresholds for predicting auditory injury (Level A Harassment). The Guidance indicates that there is a greater likelihood of auditory injury for low-frequency cetaceans, high-frequency cetaceans, and Phocid pinnipeds than was considered in our notice of proposed authorization. The practical spreading loss model estimates injury zones for functional hearing groups for which take is authorized for pulsed sound generated during impact pile driving (Table 4) and non-pulsed sound during vibratory pile driving (Table 5).

TABLE 3—SUMMARY OF PTS ONSET ACOUSTIC THRESHOLDS—Continued

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
High-Frequency (HF) Cetaceans	Lpk,flat: 202 dB, L _E ,HF,24h: 155 dB	LE,HF,24h: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Lpk,flat: 218 dB, L _E ,PW,24h: 185 dB	L _E ,PW,24h: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Lpk,flat: 232 dB, L _E ,OW,24h: 203 dB	LE,OW,24h: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

TABLE 4—UNDERWATER LEVEL A INJURY THRESHOLD DECIBEL LEVELS AND CORRESPONDING ISOPLETHS FOR FUNCTIONAL HEARING GROUPS DURING IMPACT DRIVING

Hearing group	Low-frequency cetaceans (humpback whale, minke whale)	Mid-frequency cetaceans (killer whale)	High-frequency cetaceans (harbor porpoise, Dall’s porpoise)	Phocid pinnipeds (harbor seal)	Otariid pinnipeds (Steller sea lion)
SEL _{cum} Threshold	183	185	155	185	203
PTS Isopleth to threshold (m)/Impact Driving	527.5	18.8	628.3	282.3	20.6

*All decibel levels referenced to 1 μ Pa. Note all thresholds are based off root mean square (rms) levels

** PTS = Permanent Threshold Shift.

Based on this data NMFS will require shutdown zones that extend to 550 m for humpback whale and minke whale; 100 m for harbor seal, harbor porpoise and Dall’s porpoise; and 25 m for killer whale and Steller sea lion. NMFS will also require Level A take zones which

are areas beyond the shutdown zones where animals may be exposed to sound levels that could result in permanent threshold shift (PTS). The Level A zone of 628.3 m will be rounded to a zone of 630 m for harbor porpoise and Dall’s porpoise for monitoring purposes while

the Level A zone of 282.3 for harbor seals will be rounded to 285 m. There are no Level A take zones applicable to other species for which take is authorized.

TABLE 5—UNDERWATER LEVEL A HARASSMENT THRESHOLD DECIBEL LEVELS AND CORRESPONDING ISOPLETHS FOR FUNCTIONAL HEARING GROUPS DURING VIBRATORY DRIVING

Hearing group	Low-frequency cetaceans (humpback whale, minke whale)	Mid-frequency cetaceans (killer whale)	High-frequency cetaceans (harbor porpoise, Dall’s porpoise)	Phocid pinnipeds (harbor seal)	Otariid pinnipeds (Steller sea lion)
SEL _{cum} Threshold	183	185	155	185	203
PTS Isopleth to threshold (m)/Impact Driving	13.6	1.2	20.1	8.3	0.6

*All decibel levels referenced to 1 μ Pa. Note all thresholds are based off root mean square (rms) levels

** PTS = Permanent Threshold Shift.

Based on these results NMFS will require a shutdown zone during vibratory driving of 20 m for harbor porpoise, Dall’s porpoise, humpback whale and minke whale. A standard 10 m zone for killer whale, harbor seal and

Steller sea lion will also be implemented during vibratory driving. The disturbance zone for impact pile driving is approximately 2,090 m from the driven pile for all marine mammals. The disturbance zone for continuous

noise generated by a vibratory hammer is larger, predicted to extend for 3,265 m from the pile. Table 6 illustrates thresholds and isopleths for this activity that might result in Level B harassment impacts to a marine mammal.

TABLE 6—UNDERWATER LEVEL B DISTURBANCE THRESHOLD DECIBEL LEVELS FOR MARINE MAMMALS AND CORRESPONDING ISOPLETHS FOR IMPACT AND VIBRATORY PILE DRIVING

Type of sound source	Behavioral disruption for impulse noise (e.g., impact pile driving)	Behavioral disruption for non-pulse noise (e.g., vibratory pile driving, drilling)
Threshold	160 dB rms	120 dB.
Isopleth to threshold (m)	2,090 m	3,265 m.

*All decibel levels referenced to 1 µPa. Note all thresholds are based off root mean square (rms) levels.

The method used for calculating potential exposures to impact and vibratory pile driving noise for each threshold uses local marine mammal data sets and data from an IHA monitoring report from a similar project in the area. It is assumed that all pilings installed at each site would have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance (i.e., the piling furthest from shore) installed with the method that has the largest ZOI. The largest underwater disturbance ZOI would be produced by vibratory driving steel piles. Note that the ZOIs for each threshold are not spherical and are truncated by land masses on either side of the channel which would dissipate sound pressure waves.

Since density information was not available for marine mammal species near Gustavus, NMFS relied on two observational data sets. For the first study, ADOT&PF hired two observers to visit the Gustavus dock twice every day between March 7, 2016 and May 15, 2016. They scanned for marine mammals within 2000 m for at least 30 minutes on each visit and recorded observations. Because these data are at the project location at the same time of year as the Spring phase of work for this project, and in the absence of survey data, NMFS considers these data best available for March through May.

Similar data are not available for the September through November work phase. However, a nearby ferry terminal reconstruction project took place in Hoonah, Alaska in the Fall of 2015. Hoonah is located 32 kilometers (km) southeast of Gustavus. An IHA was issued for the Hoonah project which required submission of a marine mammal monitoring report after project completion (BerberABAM 2016). The Hoonah project required the use of both land and vessel-based observers to monitor waters that spanned the width of Icy Strait, reaching as far north as the southern shore of Pleasant Island. The ZOI for the Gustavus project extends to the northern shores of Pleasant Island and westward into Icy Strait. While the ZOIs of the Hoonah and Gustavus

projects do not directly overlap, NMFS felt that marine mammals are likely to traverse both ZOIs in comparable numbers. Note that opportunistic sightings are not considered abundance estimates and do not account for unseen animals in the area and in the water. Opportunistic surveys do not have a correction factor for those uncounted animals. Nevertheless, NMFS considers the data from the 2016 ADOT&PF study and 2015 Hoonah monitoring report to be the best data available, respectively, for the March through May and September through November periods.

In order to estimate take, NMFS assumed the following:

- 50 days of pile driving are assumed to occur in this exposure analysis (ADOT&PF states that between 16 and 50 days of pile driving activity could occur).

- 33 days of pile driving will occur in March, April, October, and November (non-charter season) and 17 days of pile driving will occur in May and September (charter season).

- 33 days in 4 non-charter months = 8.25 days/month outside of the charter season
- 17 days in 2 charter months = 8.5 days/month during the charter season

- The highest number of observed animals on any one day of the month will be utilized.

The calculation for marine mammal exposures, except for Dall’s porpoise, was estimated as follows:
(the highest number of animals observed per day in a given month) × (number of days of pile driving/removal activity in that month). The monthly totals were added to arrive at a final estimate.

Note that with the exception of Dall’s porpoise, the estimated numbers of animal exposures in the proposed IHA **Federal Register** Notice (81 FR 40852) are different from those listed in this Final IHA Notice of Issuance. NMFS determined that the new site-specific information contained in the 2016 ADOT&PF and 2015 Hoonah surveys was the best available and incorporated

it as part of the methodology described above in the Final IHA. Additionally, the proposed IHA indicated that the first period of construction would occur from September through November of 2017 while the second period was scheduled for March through May of 2018. The applicant opted to delay the start date until 2018. Therefore, the Final IHA authorizes take during the first construction period from March through May of 2018 as well as the second construction period running from September through November of 2018.

Steller Sea Lion

There are numerous Steller sea lion haulouts in Icy Strait but none occurring in Icy Passage (Mathews *et al.*, 2011; Tod Sebens, CSE, Stephen Vanderhoff, SWE, Janet Neilson, NPS, personal communication). The nearest Steller sea lion haulout sites are located on Black Rock on the south side of Pleasant Island and Point Carolus west across the Strait from Point Gustavus (Mathews *et al.*, 2011). Both haulouts are over 16 km from the Gustavus Ferry Terminal.

Steller sea lions are common in the ferry terminal area during the charter fishing season (May to September) and are known to haul out on the public dock (Tod Sebens, CSE, Stephen Vanderhoff, SWE, Janet Neilson, NPS, personal communication Bruce Kruger, ADF&G, personal communication). During the charter fishing season, Steller sea lions begin arriving at the ferry terminal as early as 2:00 p.m. local time, reaching maximum abundance when the charter boats return at approximately 5:00 p.m. local time. The sea lions forage on the carcasses of the sport fish catch and then vacate the area.

There are no density estimates of Steller sea lions available in the action area. The best available information on the distribution of these marine mammals in the study area comes from the 2016 ADOT&PF study and the 2015 Hoonah monitoring report. Individuals taken would likely be a mix of solitary adult males and females. NMFS does not anticipate exposure of Steller sea

lion pups, as there are no rookeries within the action area.

NMFS has classified Steller sea lions as two distinct population segments under the ESA—the western and eastern stocks. The western DPS, extending from Japan around the Pacific Rim to Cape Suckling in Alaska (144° W.), was listed as endangered due to its continued decline and lack of recovery. The eastern DPS, extending from Cape

Suckling (144° W.) east to British Columbia and south to California, was previously listed as threatened under the ESA. NMFS has removed the eastern DPS from the list of threatened species, while the western DPS remains listed as endangered. Note that since the actual percentage of western DPS versus eastern DPS of Steller sea lions in the project area is unknown, NMFS will conservatively estimate that all

individuals are from the endangered western DPS.

Based on the information presented in Table 7, NMFS has authorized 709 Level B harassment takes of Steller sea lions. No Level A takes are authorized since the shutdown zone for Steller sea lions during impact or vibratory pile driving is larger than the PTS isopleth.

TABLE 7—ESTIMATED MONTHLY TOTAL NUMBER OF STELLER SEA LIONS EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Project activity occurring	Charter season	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	Construction	No	8.25	² 4	33.
April 2018	Construction	No	8.25	² 7	57.75.
May 2018	Construction	Yes	8.5	² 6	51.
September 2018	Construction	Yes	8.5	¹ 26	221.
October 2018	Construction	No	8.25	¹ 33	272.25.
November 2018	Construction	No	8.25	² 9	74.25.
Total					709.25. 709 (rounded).

¹ These estimates come from observations made at the dock during March–May of 2016.

² These estimates are from monitoring in nearby Icy Strait in 2015.

Note that the final take numbers for Steller sea lion calculated in this Notice as well as the Environmental Assessment (EA) were slightly different than those included in the Biological Opinion which was drafted under the ESA. In the Biological Opinion, a total of 708 takes were calculated while 709 were estimated for this Notice and the EA. This occurred because the EA calculated takes based on 8.25 or 8.5 days of pile driving per month, as

applicable, while the Biological Opinion used a single average value of 8.33 days per month, resulting in a slightly different final take number. However, this small discrepancy will have no practical impacts because the numbers are so close and the take numbers were calculated using conservative assumptions, so NMFS does not anticipate the applicant taking anywhere close to the authorized number of takes.

Humpback Whale

NMFS used humpback whale data collected from the 2016 ADOT&PF study and 2015 Hoonah monitoring report to estimate take using the methodology described above. Based on the information presented in Table 8, NMFS has authorized 600 Level B harassment takes of humpback whales. No Level A takes are authorized since the shutdown zones are larger than the PTS isopleths.

TABLE 8—ESTIMATED MONTHLY TOTAL NUMBER OF HUMPBACK WHALES EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	8.25	16	49.5.
April 2018	8.25	¹ 22	181.5.
May 2018	8.5	110	85.
September 2018	8.5	² 15	127.5.
October 2018	8.25	² 18	148.5.
November 2018	8.25	² 1	8.25.
Total			600.25. 600 (rounded).

¹ These estimates come from observations made at the dock during March–May of 2016.

² These estimates are from monitoring in nearby Icy Strait in 2015.

Harbor Seal

There are no documented haulout sites for harbor seals in the vicinity of the project. The nearest haulouts, rookeries, and pupping grounds occur in Glacier Bay over 32 km from the ferry terminal. However, occasionally an individual will haul out on rocks on the north side of Pleasant Island (Stephen Vanderhoff, SWE, personal communication). A recent study of post-breeding harbor seal migrations from Glacier Bay demonstrates that some harbor seals traveled extensively beyond

the boundaries of Glacier Bay during the post-breeding season (Womble and Gende 2013). Strong fidelity of individuals for haulout sites during the breeding season was documented in this study as well. Harbor seals are also documented in Icy Passage in the winter and early spring (Womble and Gende 2013). Using the 2016 ADOT&PF and 2015 Hoonah data, NMFS has authorized 675 total takes of harbor seals as shown in Table 9. Since the PTS isopleth (282.3 m) during impact driving is greater than the shutdown

zones (100 m) NMFS is authorizing Level A take using the following calculation:
 Level A takes = (PTS isopleth – Shutdown zone)/Level B Isopleth (3,265 m) * Total Takes;
 Animals in Shutdown Zone = (Shutdown zone isopleth/Level B Isopleth) * Total Takes; and
 Level B takes = Total Takes – Level A Takes – Shutdown Takes
 Using these calculations, NMFS is authorizing 38 Level A and 616 Level B harbor seal takes as shown in Table 9.

TABLE 9—ESTIMATED MONTHLY TOTAL NUMBER OF HARBOR SEALS EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	8.25	¹ 20	165.
April 2018	8.25	¹ 16	132.
May 2018	8.5	¹ 7	59.
September 2018	8.5	² 22	187.
October 2018	8.25	² 16	132.
November 2018	8.25	² 0	0.
Total			675. 21 Shutdown Zone. 38 Level A. 616 Level B. 654 Total.

¹ These estimates come from observations made at the dock during March–May of 2016.
² These estimates are from monitoring in nearby Icy Strait in 2015.

Harbor Porpoise

Harbor porpoise are common in Icy Strait. Concentrations of harbor porpoise were consistently found in varying habitats surrounding Zarembo Island and Wrangell Island, and throughout the Glacier Bay and Icy Strait regions (Dahlheim *et al.*, 2009). These concentrations persisted throughout the three seasons sampled. Dahlheim (2015) indicated that 332 resident harbor porpoises occur in the

Icy Strait area, though the population has been declining across Southeast Alaska since the early 1990’s (Dahlheim *et al.*, 2012). During a 2014 survey, Barlow *et al.* (in press) observed 462 harbor porpoises in the Glacier Bay and Icy Strait area during a three-month summer survey period. It is estimated that harbor porpoise are observed on at least 75 percent of whale watch excursions (75 of 100 days) during the May through September months (Tod

Sebens, CSE, Stephen Vanderhoff, SWE, personal communication).
 Using the 2016 ADOT&PF and 2015 Hoonah data, NMFS has authorized 158 total takes of harbor porpoise as shown in Table 10. Since the PTS isopleth (628.3 m) is greater than the shutdown zone (100 m), NMFS is authorizing Level A take. Using the same calculation utilized to derive harbor seal takes, NMFS is authorizing 26 Level A and 127 Level B harbor porpoise takes.

TABLE 10—ESTIMATED MONTHLY TOTAL NUMBER OF HARBOR PORPOISE EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	8.25	17	57.75.
April 2018	8.25	14	33.
May 2018	8.5	13	25.5.
September 2018	8.5	² 17.	17.
October 2018	8.25	² 3	24.75.
November 2018	8.25	² 0	0.

TABLE 10—ESTIMATED MONTHLY TOTAL NUMBER OF HARBOR PORPOISE EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING—Continued

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
Total	158. 5 Shutdown. 26 Level A. 127 Level B. 153 Total.

¹ These estimates come from observations made at the dock during March–May of 2016.

² These estimates are from monitoring in nearby Icy Strait in 2015.

Killer Whale

Based on observations of local marine mammal specialists, the probability of killer whales occurring in Icy Passage is low. However, they do occur in Icy

Strait and have been observed in Icy Passage. Since there is no density information available for killer whales in this area, NMFS used the 2016 ADOT&PF and 2015 Hoonah data sources to estimate killer whale

exposures. NMFS has authorized 126 Level B harassment takes of killer whales as shown in Table 11. No Level A takes are authorized since the shutdown zones for killer whales are larger than the PTS isopleths.

TABLE 11—ESTIMATED MONTHLY TOTAL NUMBER OF KILLER WHALES EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	8.25	10	0.
April 2018	8.25	17	57.75.
May 2018	8.5	10	0.
September 2018	8.5	28	68.
October 2018	8.25	20	0.
November 2018	8.25	20	0.
Total .....	.....	.....	125.75. 126 (rounded).

¹ These estimates come from observations made at the dock during March–May of 2016.

² These estimates are from monitoring in nearby Icy Strait in 2015.

Minke Whale

Based on observations of local marine mammal specialists, the probability of minke whales occurring in Icy Passage is low. However, they have been documented in Icy Strait and Icy Passage and could potentially transit through the disturbance zone. The 2015 Hoonah survey conducted from

September through November did not document any minke whales. However, results from the 2016 ADOT&PF March through May survey showed a monthly high of one minke whale sighting per day in April and two minke whales per day in May. An assumption of 8.25 days of driving in April (8.25 * 1 whale) and 8.5 days in May (8.5 * 2 whales) results in 25 minke whale exposures. NMFS

will also conservatively assume that two whales may be exposed per day of driving in March (8.25 * 2 whales). Based on these assumptions NMFS is authorizing Level B harassment take of 42 minke whales as is shown in Table 12. No Level A takes are authorized since the shutdown zones for minke whales are larger than the PTS isopleth.

TABLE 12—ESTIMATED MONTHLY TOTAL NUMBER OF MINKE WHALES EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
March 2018	8.25	2	16.5.
April 2018	8.25	11	8.25.
May 2018	8.5	12	17.
September 2018	8.5	20	0
October 2018	8.25	20	0.

TABLE 12—ESTIMATED MONTHLY TOTAL NUMBER OF MINKE WHALES EXPOSED TO CONTINUOUS AND IMPACT SOURCED SOUNDS FROM PILE DRIVING—Continued

Month/year	Number of days of pile driving	Maximum number of animals observed on a single day	Estimated monthly total number of exposed animals
November 2018	8.25	² 0	0.
Total .....	.....	.....	41.75. 42 (rounded).

¹ These estimates come from observations made at the dock during March–May of 2016.

² These estimates are from monitoring in nearby Icy Strait in 2015.

Dall's Porpoise

Dall's porpoise are documented in Icy Strait but not Icy Passage. Dahlheim *et al.*, (2009) found Dall's porpoise throughout Southeast Alaska, with concentrations of animals consistently found in Icy Strait, Lynn Canal, Stephens Passage, upper Chatham Strait, Frederick Sound, and Clarence Strait. It is estimated that there are anywhere from 4 to 12 sightings of Dall's porpoise in Icy Strait per season during the May through September whale watching charter months (Tod Sebens, CSE, Stephen Vanderhoff, SWE, personal communication). NPS documented seven sightings in Icy Strait since 1993 in September, October, November, April, and May. The mean group size of Dall's porpoise in Southeast Alaska is estimated at three individuals (Dahlheim *et al.*, 2009).

The 2016 ADOT&PF and 2015 Hoonah studies did not record any sightings of Dall's porpoise. However, they are occasionally sighted by whale watching tours in Icy Strait and could potentially transit from the Strait into the ZOI in Icy Passage. For this analysis, NMFS conservatively assumes a maximum number of 12 group sightings per season between May and September, which equates to 2.4 sightings per month. Using this number it is estimated that the following number of Dall's porpoise may be present in the disturbance zone:

Underwater exposure estimate: 2.4 group sightings/month × 3 animals/group × 6 months of pile driving activity (March–May; September–November) = 43.2

Since the PTS isopleth during impact driving (628.3 m) is greater than the shutdown zone (100 m) NMFS is authorizing Level A take. Using the same calculation utilized to derive harbor seal takes, NMFS is authorizing take of 42 Dall's porpoise, with 7 Level A and 35 Level B takes. According to this calculation, one porpoise would theoretically occur in the shutdown

zone and, therefore, is not counted as a take.

Analyses and Determinations

Negligible Impact Analysis

NMFS has defined negligible impact as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival” (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.*, intensity, duration), the context of any responses (*e.g.*, critical reproductive time or location, migration, etc.), and effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 1. There is little information about the nature of severity of the impacts or the size, status, or structure of any species or stock that would lead to a different analysis for this activity.

Pile driving and pile extraction activities associated with the Gustavus Ferry Terminal Improvements Project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in Level B harassment (behavioral disturbance) for all species authorized for take, from underwater sound generated from pile driving and removal. Level A injury may also occur to a limited number of harbor seal, harbor porpoise and Dall's porpoise. Potential takes could occur if individuals of these species are present in the Level A and Level B ensounded zones when pile driving is under way.

No serious injury or mortality is anticipated to result from this activity. Limited take of three species of marine mammal by Level A harassment (injury) is authorized due to potential auditory injury that cannot reasonably be prevented through mitigation. Any take by Level A harassment will potentially be in the form of PTS and may affect small numbers of harbor seal, harbor porpoise and Dall's porpoise. ADOT&PF will enact required mitigation measures to minimize Level A take. ADOT&PF will also record all occurrences of marine mammals in specified Level A zones. In this analysis, we considered the potential for small numbers of three species to incur auditory injury and found that it would not impact our preliminary determinations.

Any takes from Level B harassment will be due to behavioral disturbance and TTS. As part of required mitigation, ADOT&PF will employ soft start techniques during pile driving operations to allow marine mammals to vacate the area prior to commencement of full power driving. Pile caps will also be employed during impact pile driving to reduce underwater noise levels.

ADOT&PF's proposed activities are localized and of relatively short duration. The entire project area is limited to the Gustavus Ferry Terminal area and its immediate surroundings. Specifically, the use of impact driving

will be limited to an estimated maximum of 57 hours over the course of 16 to 50 days of construction. Total vibratory pile driving time is estimated at 114 hours over the same period. While impact driving does have the potential to cause injury to marine mammals, mitigation in the form of shutdown zones should limit exposure to Level A thresholds. Vibratory driving does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced and the lack of potentially injurious source characteristics. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be within the ensonified areas during the construction timeframe.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities are limited in time and would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a portion of the foraging range. However, a relatively small area of habitat may be affected, so the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such

as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff 2006; Lerma 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile extraction and driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations, which have taken place with no reported serious injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and would not result in any adverse impact to the stock as a whole.

For pinnipeds, no rookeries are present in the project area. Furthermore,

the project area is not known to provide foraging habitat of any special importance (other than is afforded by the known migration of salmonids).

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of serious injury or mortality to authorized species may reasonably be considered discountable; (2) the limited temporal and spatial impacts to marine mammal habitat; (3) the absence of any major rookeries near the project area; and (4) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of effecting the least practicable impact upon the affected species. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from ADOT&PF's Gustavus Ferry Terminal Improvements Project will have a negligible impact on all affected marine mammal species or stocks.

TABLE 13—ESTIMATED NUMBER OF EXPOSURES AND PERCENTAGE OF STOCKS THAT MAY BE SUBJECT TO LEVEL A AND LEVEL B HARASSMENT

Species	Level A authorized takes	Level B authorized takes	Total proposed authorized takes	Stock(s) abundance estimate	Percentage of total stock
Steller Sea Lion	0	709	709	50,983 (western distinct population segment in Alaska)/71,562 (eastern stock).	1.43%/1.39%.
Humpback whale	0	600/(36*)	600/(36*)	10,103 (Central North Pacific Stock)/3,264 (Mexico DPS).	5.93%/1.1%.
Harbor Seal	38	616	654	7,210 (Glacier Bay/Icy Strait)	9.07%.
Harbor Porpoise	26	127	153	11,146 (Southeast Alaska)	1.37%.
Killer whale	0	126	126	261 (Northern resident)/587 (Gulf of Alaska transient)/243 (West Coast transient).	48.2% 21.4% 51.8%.
Minke whale	0	42	42	Unknown	Unknown.
Dall's Porpoise	7	35	42	83,400	<0.01%.

* 6.1 percent of humpbacks whales in southeast Alaska (36) are from Mexico DPS (Wade *et al.* 2016).

Small Numbers Analysis

Table 13 depicts the number of animals that could be exposed to received noise levels that could cause Level A or Level B harassment for the proposed work at the Gustavus Ferry Terminal project. The analyses provided above represent between <0.01 and 51.8

percent of the populations of these stocks that could be affected by harassment, except for Minke whales since their population number is unknown. While the Northern resident and West Coast transient killer whale takes and percentages of stock affected appears high (48.2 percent and 51.8

percent), in reality 126 Northern resident or West Coast transient killer whale individuals are not likely to be harassed. Instead, it is more likely that there will be multiple takes of a smaller number of individuals.

NMFS believes that small numbers of the West coast transient killer whale

stock would be taken based on the limited region of exposure in comparison with the known distribution of the transient stock. The West coast transient stock ranges from Southeast Alaska to California, while the proposed project activity would be stationary. A notable percentage of West coast transient whales have never been observed in Southeast Alaska. Only 155 West coast transient killer whales have been identified as occurring in Southeast Alaska according to Dahlheim and White (2010). The same study identified three pods of transients, equivalent to 19 animals that remained almost exclusively in the southern part of Southeast Alaska (*i.e.* Clarence Strait and Summer Strait). This information indicates that only a small subset of the entire West coast Transient stock would be at risk for take in the Icy Passage area because a sizable portion of the stock has either not been observed in Southeast Alaska or consistently remains far south of Icy Passage.

The Northern resident killer whale stock are most commonly seen in the waters around the northern end of Vancouver Island, and in sheltered inlets along B.C.'s Central and North Coasts. They also range northward into Southeast Alaska in the winter months. Pile driving operations are not permitted under the IHA from December through February. It is also unlikely that such a large portion of Northern resident killer whales with ranges of this magnitude would be concentrated in and around Icy Passage.

There is no current abundance estimate for minke whale since population data on this species is dated. However, the proposed take of 42 minke whales may be considered small. A visual survey for cetaceans was conducted in the central-eastern Bering Sea in July–August 1999, and in the southeastern Bering Sea in 2000. Results of the surveys in 1999 and 2000 provide provisional abundance estimates of 810 and 1,003 minke whales in the central-eastern and southeastern Bering Sea, respectively (Moore *et al.*, 2002). Additionally, line-transect surveys were conducted in shelf and nearshore waters in 2001–2003 from the Kenai Fjords in the Gulf of Alaska to the central Aleutian Islands. Minke whale abundance was estimated to be 1,233 for this area (Zerbini *et al.*, 2006). However, these estimates cannot be used as an estimate of the entire Alaska stock of minke whales because only a portion of the stock's range was surveyed. (Allen and Anglis 2012). Clearly, 42 authorized takes should be considered a small number, as it constitutes only 5.2 percent of the smallest abundance

estimate generated during the surveys just described and each of these surveys represented only a portion of the minke whale range.

Note that the numbers of animals authorized to be taken for all species, with the exception of Northern resident and West coast transient killer whales, would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

The proposed Gustavus Ferry Terminal improvements project will occur near but not overlap the subsistence area used by the villages of Hoonah and Angoon (Wolfe *et al.*, 2013). Harbor seals and Steller sea lions are available for subsistence harvest in this area (Wolfe *et al.*, 2013). There are no harvest quotas for other marine mammals found there. The project is likely to result only in short-term, temporary impacts to pinnipeds in the form of possible behavior changes, and is not expected to result in the serious injury or death of any marine mammal. Since all project activities will take place within the immediate vicinity of the Gustavus Ferry Terminal, the project will not have an adverse impact on the availability of marine mammals for subsistence use at locations farther away. No disturbance or displacement of harbor seals or sea lions from traditional hunting areas by activities associated with the project is expected.

Based on the description of the specified activity and the proposed mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from ADOT&PF's proposed activities.

National Environmental Policy Act

NMFS prepared an Environmental Assessment (EA) and analyzed the potential impacts to marine mammals that would result from the Gustavus Ferry Terminal construction project. A Finding of No Significant Impact

(FONSI) was signed on December 20, 2016. A copy of the EA and FONSI is available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

There are two marine mammal species that are listed under the ESA with confirmed or possible occurrence in the study area. The Mexico DPS of humpback whale is listed as threatened and the western DPS of Steller sea lion is listed as endangered under the Endangered Species Act. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to ADOT&PF under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of Mexico DPS humpback whales or western DPS Steller sea lions, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat.

Authorization

NMFS has issued an IHA to ADOT&PF for reconstructing the existing Gustavus Ferry Terminal located in Gustavus, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 4, 2017.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2017-07031 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF345

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of meeting of the South Atlantic Fishery Management Council's (Council) Law Enforcement Advisory Panel (AP).

SUMMARY: The South Atlantic Fishery Management Council will hold a meeting of its Law Enforcement AP in Charleston, SC. The meeting is open to the public.

DATES: The meeting will be held on Thursday, May 18, 2017, from 9 a.m. until 5 p.m., and Friday, May 19, 2017, from 9 a.m. until 12 p.m.

ADDRESSES:

Meeting address: The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: (800) 334-6660 or (843) 571-1000.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; phone (843) 571-4366 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: Members of the AP will receive updates on amendments to fishery management plans currently under development by the Council and recently approved amendments, an update on the law enforcement component of an electronic reporting pilot program for charter vessels, discuss possible changes to Operator Permits to improve their utility, discuss enforcement of fishery closures, discuss retention of recreational bag limits when citations are issued, and address other topics relative to fisheries law enforcement as appropriate.

Members of the AP will discuss items and provide recommendations as appropriate.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: April 5, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2017-07124 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF342

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of issuance of four ESA section 10(a)(1)(A) research/enhancement permits for take of threatened and endangered species.

SUMMARY: This notice advises the public that four direct take permits have been issued pursuant to section 10(a)(1)(A) for programs rearing and releasing spring Chinook salmon in the Methow River basin of Washington state (Columbia River basin). The permits are issued, for different aspects of the actions, to the Public Utility Districts of Grant, Chelan, and Douglas Counties, the Washington Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the Yakama Nation.

DATES: The permits were issued on February 17, 2017, and February 21, 2017, subject to certain conditions set forth therein. Subsequent to issuance, the necessary countersignatures by the applicants were received. The permits expire on December 31, 2027.

ADDRESSES: Requests for copies of the decision documents or any of the other associated documents should be addressed to the NMFS Sustainable Fisheries Division, 1201 NE. Lloyd Blvd. #1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Emi Kondo at (503) 736-4739 or by email at emi.kondo@noaa.gov.

SUPPLEMENTARY INFORMATION: This notice is relevant to the following species and evolutionarily significant unit (ESU)/distinct population segment (DPS):

Chinook salmon (*Oncorhynchus tshawytscha*): Endangered, naturally produced Upper Columbia River (UCR) spring-run.

Steelhead (*O. mykiss*): Threatened, naturally produced and artificially propagated Upper Columbia River.

Dated: April 4, 2017.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017-07066 Filed 4-7-17; 8:45 am]

BILLING CODE 3510-22-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.

SUMMARY: The inventions listed below are assigned to the United States Government, as represented by the Secretary of the Navy and are available for domestic and foreign licensing by the Department of the Navy.

The following patents are available for licensing: Patent No. 9,589,241 (Navy Case No. 100169); ELECTRICAL RESOURCE CONTROLLER//Patent No. 9,590,611 (Navy Case No. 103212):

RADIATION-HARDENED DUAL GATE SEMICONDUCTOR TRANSISTOR DEVICES CONTAINING VARIOUS IMPROVED STRUCTURES INCLUDING MOSFET GATE AND JFET GATE STRUCTURES AND RELATED METHODS//Patent No. 9,593,919 (Navy Case No. 102520); METHOD AND APPARATUS FOR RAPID DEPLOYMENT OF A DESIRABLE MATERIAL OR CHEMICAL USING A PYROPHORIC SUBSTRATE//Patent No. 9,594,117 (Navy Case No. 103034); COMPACT ELECTRONICS TEST SYSTEM HAVING USER PROGRAMMABLE DEVICE INTERFACES AND ON-BOARD FUNCTIONS ADAPTED FOR USE IN PROXIMITY TO A RADIATION FIELD//Patent No. 9,594,000 (Navy Case No. 103027); VACUUM IMMERSION TEST SET//Patent No. 9,595,519 (Navy Case No. 200114); COMBINATION METAL OXIDE SEMI-CONDUCTOR FIELD EFFECT TRANSISTOR (MOSFET) AND JUNCTION FIELD EFFECT TRANSISTOR (JFET) OPERABLE FOR MODULATING CURRENT VOLTAGE RESPONSE OR MITIGATING ELECTROMAGNETIC OR RADIATION INTERFERENCE EFFECTS BY ALTERING CURRENT FLOW THROUGH THE MOSFETS SEMI-CONDUCTIVE CHANNEL REGION (SCR)//Patent No. 9,595,763 (Navy Case No. 200336); PROCESS FOR ASSEMBLING DIFFERENT CATEGORIES OF MULTI-ELEMENT ASSEMBLIES TO PREDETERMINED TOLERANCES AND ALIGNMENTS USING A RECONFIGURABLE ASSEMBLING AND ALIGNMENT APPARATUS//Patent No. 9,599,441 (Navy Case No. 102250); OFF-BOARD INFLUENCE SYSTEM//Patent No. 9,599,970 (Navy Case No. 102500); SAFETY CRITICAL CONTROL SYSTEM

THAT INCLUDES CONTROL LOGIC OR MACHINE READABLE INSTRUCTIONS THAT SELECTIVELY LOCKS OR ENABLES THE CONTROL SYSTEM BASED ON ONE OR MORE MACHINE IMPLEMENTED STATE MACHINES THAT INCLUDES STATES ASSOCIATED WITH DETECTION OR MATCHING OF ONE OR MORE PREDETERMINED SIGNALS ON DISTINCT CONDUCTION PATHS BETWEEN ELEMENTS OF THE CONTROL SYSTEM AND RELATED METHODS//Patent No. 9,601,201 (Navy Case No. 200349): IRREPRODUCIBLE AND RE-EMERGENT UNIQUE STRUCTURE OR PATTERN IDENTIFIER MANUFACTURING AND DETECTION METHOD, SYSTEM, AND APPARATUS//Patent No. 9,601,214 (Navy Case No. 200363): METHOD AND SYSTEM FOR IMPROVING THE RADIATION TOLERANCE OF FLOATING GATE MEMORIES//Patent No. 9,602,203 (Navy Case No. 200118): METHODS AND SYSTEMS FOR IDENTIFICATION AND COMMUNICATION USING FREE SPACE OPTICAL SYSTEMS INCLUDING WEARABLE SYSTEMS//Patent No. 9,599,429 (Navy Case No. 200004): ADJUSTABLE ERGONOMIC GRIP FOR A WEAPON//and Patent No. 9,604,087 (Navy Case No. 200254): ROPE CLIMBING SYSTEMS AND METHODS OF USE.

ADDRESSES: Requests for copies of the patents cited should be directed to Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522-5001, Email Christopher.Monsey@navy.mil.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: April 4, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017-07075 Filed 4-7-17; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket ID ED-2017-OM-0018]

Privacy Act of 1974; System of Records

AGENCY: Office of Management, Department of Education.

ACTION: Rescinding of systems of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a), the Department of Education (Department) rescinds from its existing inventory of systems of records notices subject to the Privacy Act two systems of records entitled "Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education" (18-05-08) and "General Performance Appraisal System (GPAS)" (18-05-10).

DATES: Submit your comments on this rescinded systems of records notice on or before May 10, 2017.

This rescinded systems of records notice will become effective April 10, 2017, unless it needs to be changed as a result of public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "Help" tab.

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the rescinded systems of records, address them to: Denise Carter, Acting Assistant Secretary, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will supply an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please

contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Deputy Chief Human Capital Officer, Office of Human Resources, Office of Management, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Department rescinds two systems of records notices from its inventory of record systems subject to the Privacy Act. The rescissions are not within the purview of subsection (r) of the Privacy Act, which requires submission of a report on a new or altered system of records.

The two systems of records notices are discontinued for the following reasons:

The Department rescinds the following Privacy Act system of records notice because the records maintained in this system of records notice are covered by OPM/GOVT-1 (General Personnel Records), last published in full at 77 FR 73694-73699 (Dec. 11, 2012) and last modified at 80 FR 74815 (Nov. 30, 2015), which is a governmentwide system of records notice:

1. Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education (18-05-08), 64 FR 30106, 30130-30131 (June 4, 1999).

Thus, the records that were previously covered by this system of records notice will now be covered by the OPM/GOVT-1 (General Personnel Records) governmentwide system of records notice.

The Department rescinds the following Privacy Act system of records notice because the records maintained in this system of records notice are covered by OPM/GOVT-2 (Employee Performance File System Records), last published in full at 71 FR 35342, 35347-35350 (June 19, 2006), and last modified at 80 FR 74815 (Nov. 30, 2015), which is a governmentwide system of records notice:

2. General Performance Appraisal System (GPAS) (18-05-10), 64 FR 30106, 30133-30135 (June 4, 1999).

Thus, the records that were previously covered by this system of records notice will now be covered by the OPM/GOVT-2 (Employee Performance File System Records) government wide system of records notice.

Accessible Format: Individuals with disabilities can obtain this document in

an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 5, 2017.

Denise L. Carter,

Acting Assistant Secretary for Management.

For the reasons discussed in the preamble, the Acting Assistant Secretary for Management rescinds the following two systems of records notices:

SYSTEM NAMES AND NUMBERS:

1. Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education (18–05–08); and
2. General Performance Appraisal System (GPAS) (18–05–10).

HISTORY:

The system of records notice entitled “Official Time Records of Union Officials and Bargaining Unit Employees at the Department of Education” (18–05–08) was last published in the **Federal Register** at 64 FR 30106, 30130–30131 (June 4, 1999), and the system of records notice entitled “General Performance Appraisal System (GPAS)” (18–05–10) was last published in the **Federal Register** at 64 FR 30106, 30133–30135 (June 4, 1999).

[FR Doc. 2017–07170 Filed 4–7–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Extension Without Change to a Previously Approved Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy, pursuant to the Paperwork Reduction Act of 1995, intends to renew, for three years, an information collection request pertaining to the Department’s administration of access provisions under the Privacy Act of 1974, with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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) the agency’s proposal to change the name of the information collection from the current “Records and Administration” to “Privacy Act Administration,” which reflects a change of the owner of this information collection from the agency’s Records Management Officer to the agency’s Chief Privacy Officer. The collection instrument has been modified to comply with updates to Privacy Act implementation requirements outlined in OMB Circular A–108, issued January 2017, located at: https://obama.whitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a108/omb_circular_a-108.pdf.

DATES: Comments regarding this proposed information collection must be received on or before June 9, 2017. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Rm 8H–085, Washington, DC 20585 or by fax at 202–586–8151 or by email at privacy@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Rm 8H–085, Washington, DC 20585 or by fax at 202–586–8151 or by email at privacy@hq.doe.gov.

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) OMB No. 1910–1700; (2) Information Collection Request Title: Privacy Act Administration (formerly Records and Administration); (3) Type of Review: Regular; (4) Purpose: The Privacy Act Information Request form aids the Department of Energy’s processing of Privacy Act requests submitted by an individual or an authorized representative, wherein he or she is requesting records the government may maintain on the individual. The Department’s use of this form continues to contribute to the Department’s Privacy Act processes, including, but not limited to, providing for faster processing of Privacy Act information requests by asking individuals or their authorized representative for pertinent information needed for records retrieval; (5) Annual Estimated Number of Respondents: 135; (6) Annual Estimated Number of Total Responses: 135; (7) Annual Estimated Number of Burden Hours: 45; and (8) Annual Estimated Reporting and Recordkeeping Cost Burden: \$0.

Authority: Statutory Authority: The Privacy Act of 1974, 5 U.S.C. 552(a); 10 CFR 1008.7; and DOE Order 206.1.

Issued in Washington, DC, on April 3, 2017.

Allan Manuel,

Deputy Chief Information Officer for Enterprise Policy, Portfolio Management, and Governance, Office of the Chief Information Officer.

[FR Doc. 2017–07107 Filed 4–7–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DW–012]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Miele Incorporated From the Department of Energy Residential Dishwasher Test Procedure

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

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of a decision and order (Case No. DW–012) that grants to Miele Incorporated (Miele) a waiver from the DOE dishwasher test procedure for determining the energy consumption of dishwashers. Under this decision and order, Miele is required to test and rate its dishwasher using an alternate test procedure that allows for

testing of one specified basic model at 208 volts when measuring energy consumption.

DATES: This Decision and Order is effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: AS_Waiver_Requests@ee.doe.gov.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 586-7796. Email: Elizabeth.Kohl@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Miele a waiver from the applicable dishwasher test procedure in 10 CFR part 430, subpart B, appendix C1 for a certain basic model of dishwashers that operates at 208 volts, provided that Miele tests and rates such products using the alternate test procedure described in this notice. Miele's representations concerning the energy efficiency of these products must be based on testing consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Not later than June 9, 2017, any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver from the dishwasher test procedure must submit a petition for waiver pursuant to the requirements of this section. Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Issued in Washington, DC, on April 4, 2017.

Kathleen Hogan,

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

Decision and Order

In the Matter of: Miele Incorporated. (Case No. DW-012)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA) (42 U.S.C. 6291-6309) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes dishwashers.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential dishwashers is contained in 10 CFR part 430, subpart B, appendix C1, *Uniform Test Method for Measuring the Energy Consumption of Dishwashers*.

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when that basic model contains one or more design characteristics that: (1) Prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

II. Miele's Petition for Waiver: Assertions and Determinations

On July 13, 2016, Miele filed a petition for waiver and application for interim waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C1. Miele has designed a dishwasher that runs on an electrical supply voltage of 208 volts. The existing test procedure

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

under section 2.2 of 10 CFR part 430, subpart B, appendix C1 has provisions for testing at 115 and 240 volts only. In its petition for waiver, Miele submitted to DOE an alternate test procedure that allows for testing of one specified basic model at 208 volts.

Miele also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 81 FR at 87027 (Dec. 2, 2016). After reviewing the alternate procedure suggested by Miele, DOE granted the interim waiver because DOE determined that Miele's petition for waiver would likely be granted and decided that it was desirable for public policy reasons to grant Miele immediate relief pending a determination on the petition for waiver. Miele's petition was published in the **Federal Register** on December 2, 2016. 81 FR 87027. DOE received no comments regarding Miele's petition.

DOE previously granted a petition for waiver submitted for an earlier design generation of Miele dishwasher rated for 208 volts (Case No. DW-006) on December 27, 2011, from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with a 208 volt supply voltage. 76 FR 80920.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Miele petition for waiver. The FTC staff did not have any objections to granting a waiver to Miele.

IV. Order

After careful consideration of all the material that was submitted by Miele and consultation with the FTC staff, in accordance with 10 CFR 430.27, it is ORDERED that:

(1) The petition for waiver submitted by the Miele Incorporated. (Case No. DW-012) is hereby granted as set forth in the paragraphs below.

(2) Miele must test and rate the Miele basic model specified in paragraph (3) on the basis of the current test procedure contained in 10 CFR part 430, subpart B, appendix C1 with the modification of section 2.2 of appendix C1 set forth below to provide for a dishwasher that operates with an electrical supply of 208 volts:

Dishwashers that operate with an electrical supply of 208 volts. Maintain the electrical supply to the dishwasher at 208 volts \pm 2 percent and within 1 percent of its nameplate frequency as specified by the manufacturer. Maintain a continuous electrical supply to the unit throughout testing, including the preconditioning cycles, specified in

section 2.9 of this appendix, and in between all test cycles.

(3) This order applies only to the following basic model: PG8056–208V.

(4) Representations. Miele may make representations about the energy use of its dishwasher products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27.

Issued in Washington, DC, on 4/4/2017.

Kathleen B. Hogan,

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

[FR Doc. 2017–07109 Filed 4–7–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–027]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Electronics America, Inc. From the Department of Energy Residential Clothes Washer Test Procedure

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

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of a decision and order (Case No. CW–027) that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE test procedure for determining the energy consumption of clothes washers. Under this decision and order, Samsung is required to test and rate its clothes washers with clothes containers greater than 6.0 cubic feet using an alternate test procedure that takes this larger capacity into account when measuring energy consumption.

DATES: This Decision and Order is effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: Bryan.Berringer@ee.doe.gov.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–7796. Email: Elizabeth.Kohl@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Samsung a waiver from the applicable clothes washer test procedure in 10 CFR part 430, subpart B, appendix J2 for certain basic models of clothes washers with capacities greater than 6.0 cubic feet, provided that Samsung tests and rates such products using the alternate test procedure described in this notice. Samsung's representations concerning the energy efficiency of these products must be based on testing consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Not later than June 9, 2017, any manufacturer currently distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver from the clothes washer test procedure must submit a petition for waiver. 10 CFR 430.27(j). Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Issued in Washington, DC, on April 4, 2017.

Kathleen Hogan,

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

Decision and Order

In the Matter of: Samsung Electronics America, Inc. (Case No. CW–027)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA) (42 U.S.C. 6291–6309) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes

residential clothes washers.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential clothes washers is contained in 10 CFR part 430, subpart B, appendix J2.

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when that basic model contains one or more design characteristics that: (1) Prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

II. Samsung's Petition for Waiver: Assertions and Determinations

On August 24, 2016, Samsung submitted a petition for waiver from the DOE test procedure applicable to automatic and semi-automatic clothes washers set forth in 10 CFR part 430, subpart B, appendix J2. Samsung requested the waiver because the mass of the test load used in the procedure, which is based on the basket volume of the test unit, is currently not defined for basket sizes greater than 6.0 cubic feet. In its petition, Samsung seeks a waiver for a specified basic model with a capacity greater than 6.0 cubic feet. Table 5.1 of Appendix J2 defines the test load sizes used in the test procedure as linear functions of the basket volume. Samsung requests that DOE grant a waiver for testing and rating based on a revised Table 5.1. (See 77 FR 13888, Mar. 7, 2012; the "March 2012 Final Rule")

Samsung also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 81 FR at 87030 (Dec. 2, 2016). After reviewing the alternate procedure suggested by Samsung, DOE granted the

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

interim waiver because DOE concluded that it would allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with testing clothes washers with capacities greater than 6.0 cubic feet.

Samsung's petition was published in the **Federal Register** on December 2, 2016. 81 FR 87030. DOE received three comments from consumers opposing Samsung's petition due to recent recall of Samsung clothes washers. (Consumer Commenters, Nos. 3 at p. 1, 4 at p. 4, and 5 at p. 1)² The recall pertains to the washing machine top can unexpectedly detach from the washing machine chassis during use, posing a risk of injury from impact. This recall involves 34 models of Samsung top-load washing machines. Although the comments are about specific Samsung clothes washers that have been manufactured, the comments did not address the merits of the waiver, which would extend Table 5.1 of appendix J2 up to 8.0 cu. ft. for clothes washers that have not been manufactured for sale to date.

DOE granted a waiver to Whirlpool under a Decision and Order (81 FR 26251, May 2, 2016) to allow for the testing of clothes washers with container volumes between 6.0 cubic feet and 8.0 cubic feet. DOE also granted

a waiver to Samsung for a similar request under two Decisions and Orders (76 FR 13169, Mar. 10, 2011; 76 FR 50207, Aug. 12, 2011) to allow for the testing of clothes washers with container volumes between 3.8 cubic feet and 6.0 cubic feet. In addition to the previous waiver granted to Samsung, DOE granted waivers to LG (CW-016 (76 FR 11233, Mar. 1, 2011), CW-018 (76 FR 21879, Apr. 19, 2011), and CW-021 (76 FR 64330, Oct. 18, 2011)); General Electric (75 FR 76968, Dec. 10, 2010); Whirlpool (75 FR 69653, Nov. 15, 2010); and Electrolux (76 FR 11440, Mar. 2, 2011) to allow for the testing of clothes washers with container volumes between 3.8 cubic feet and 6.0 cubic feet.

For the reasons set forth in DOE's March 2012 Final Rule, DOE concludes that extending the linear relationship between test load size and container capacity to larger capacities represents the best possible approach to determining load size for large capacity washers. DOE will continue to evaluate this issue in the next revision to the DOE test procedure in appendix J2. In addition, DOE determines that testing a basic model with a capacity larger than 6.0 cubic feet using the current procedure at Appendix J2 could evaluate the basic models in a manner

so unrepresentative of their true energy consumption as to provide materially inaccurate comparative data.

III. Consultations with Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Samsung petition for waiver. The FTC staff did not have any objections to granting a waiver to Samsung.

IV. Order

After careful consideration of all the material that was submitted by Samsung and the commenters, the testing and analysis conducted for the March 2012 Final Rule, and consultation with the FTC staff, in accordance with 10 CFR 430.27, it is ORDERED that:

(1) The petition for waiver submitted by the Samsung Electronics America, Inc. (Case No. CW-027) is hereby granted as set forth in the paragraphs below.

(2) Samsung must test and rate the Samsung basic model specified in paragraph (3) on the basis of the current test procedure contained in 10 CFR part 430, subpart B, appendix J2, except that Table 5.1 of appendix J2 is supplemented by the following additional rows:

TABLE 5.1—TEST LOAD SIZES—SUPPLEMENT

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	lb	kg	lb	kg	lb	Kg
6.00–6.10	169.9–172.7	3.00	1.36	24.80	11.25	13.90	6.30
6.10–6.20	172.7–175.6	3.00	1.36	25.20	11.43	14.10	6.40
6.20–6.30	175.6–178.4	3.00	1.36	25.60	11.61	14.30	6.49
6.30–6.40	178.4–181.2	3.00	1.36	26.00	11.79	14.50	6.58
6.40–6.50	181.2–184.1	3.00	1.36	26.40	11.97	14.70	6.67
6.50–6.60	184.1–186.9	3.00	1.36	26.90	12.20	14.95	6.78
6.60–6.70	186.9–189.7	3.00	1.36	27.30	12.38	15.15	6.87
6.70–6.80	189.7–192.6	3.00	1.36	27.70	12.56	15.35	6.96
6.80–6.90	192.6–195.4	3.00	1.36	28.10	12.75	15.55	7.05
6.90–7.00	195.4–198.2	3.00	1.36	28.50	12.93	15.75	7.14
7.00–7.10	198.2–201.0	3.00	1.36	28.90	13.11	15.95	7.23
7.10–7.20	201.0–203.9	3.00	1.36	29.30	13.29	16.15	7.33
7.20–7.30	203.9–206.7	3.00	1.36	29.70	13.47	16.35	7.42
7.30–7.40	206.7–209.5	3.00	1.36	30.10	13.65	16.55	7.51
7.40–7.50	209.5–212.4	3.00	1.36	30.60	13.88	16.80	7.62
7.50–7.60	212.4–215.2	3.00	1.36	31.00	14.06	17.00	7.71
7.60–7.70	215.2–218.0	3.00	1.36	31.40	14.24	17.20	7.80
7.70–7.80	218.0–220.9	3.00	1.36	31.80	14.42	17.40	7.89
7.80–7.90	220.9–223.7	3.00	1.36	32.20	14.61	17.60	7.98
7.90–8.00	223.7–226.5	3.00	1.36	32.60	14.79	17.80	8.07

(3) This order applies only to the following basic model: WA63M97**A*.

(4) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27.

Issued in Washington, DC, on 4/4/2017.
Kathleen B. Hogan,

² A notation in the form "Consumer Commenters, No. 3 at p. 1, 4 at p. 4 and 5 at p. 1" identifies written comments: (1) Made by the Coy Garrett, Liz Rowan and Julia Ramirez (hereinafter the

"Consumer Commenters"); (2) recorded in document numbers 3, 4 and 5 that are filed in the docket of this waiver (Docket No. EERE-2016-BT-WAV-0038) and available for review at

www.regulations.gov; and (3) which appears on page 1 of document number 3, page 4 of document 4, and page 1 of document 5.

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

[FR Doc. 2017-07108 Filed 4-7-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17-573-000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.403: Rate Schedule S-2 Tracking Filing, eff. April 1, 2017 to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5002.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-574-000.

Applicants: Equitrans, L.P.

Description: Equitrans, L.P. submits tariff filing per 154.203: Notice Regarding Non-Jurisdictional Gathering Facilities (F-538 W-4832).

Filed Date: 03/30/2017.

Accession Number: 20170330-5004.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-575-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate—Boston Gas to BBPC—793493 & 793498 to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5087.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-576-000.

Applicants: Pine Needle LNG Company, LLC.

Description: Pine Needle LNG Company, LLC submits tariff filing per 154.403(d)(2): 2017 Annual Fuel and Electric Power Tracker Filing to be effective 5/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5092.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-577-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing

per 154.204: Negotiated Rate—Col Gas to BBPC—793499 & 793524 & 793583 to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5097.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-578-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rates—Spark Energy—793558 & 793557 & 793584 to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5102.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-579-000.

Applicants: Equitrans, L.P.

Description: Equitrans, L.P. submits tariff filing per 154.203: Notice Regarding Non-Jurisdictional Gathering Facilities (W-7527 F-823).

Filed Date: 03/30/2017.

Accession Number: 20170330-5115.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-580-000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.601: Non-Conforming Negotiated Rate Update Filing (DCP) to be effective 5/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5139.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-581-000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Mercuria Energy Negotiated Rate to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5279.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-582-000.

Applicants: Equitrans, L.P.

Description: Equitrans, L.P. submits tariff filing per 154.204: Negotiated Rate Service Agreement—Mercuria Energy America, Inc. LPS to be effective 5/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5301.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-583-000.

Applicants: Enable Gas Transmission, LLC.

Description: Enable Gas Transmission, LLC submits tariff filing per 154.204:

Negotiated Rate Filing- Non-Conforming April 2017 Cross Timbers 1007632 Removal to be effective 4/1/2017.

Filed Date: 03/30/2017.

Accession Number: 20170330-5325.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-584-000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.204: Non-Conforming Agreements Filing (APS) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5002.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-585-000.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits tariff filing per 154.601: 4 Neg Rate Agmts April 2017 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5004.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-586-000.

Applicants: Northern Border Pipeline Company.

Description: Northern Border Pipeline Company submits tariff filing per 154.601: Sequent Energy Neg Rate Agmt to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5005.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-587-000.

Applicants: East Tennessee Natural Gas, LLC.

Description: East Tennessee Natural Gas, LLC submits 2015-2016 Cashout Report.

Filed Date: 03/30/2017.

Accession Number: 20170330-5361.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, April 11, 2017.

Docket Numbers: RP17-588-000.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits tariff filing per 154.403: OTRA—Summer 2017 to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5059.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-589-000.

Applicants: Hardy Storage Company, LLC.

Description: Hardy Storage Company, LLC submits tariff filing per 154.204: RAM 2017 to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5060.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-590-000.

Applicants: Columbia Gulf Transmission, LLC.

Description: Columbia Gulf Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Service Amendment—Kaiser to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5061.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-591-000.

Applicants: WBI Energy Transmission, Inc.

Description: WBI Energy Transmission, Inc. submits tariff filing per 154.204: 2017 Non-Conforming Negotiated SA FT-1390—Oneok to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5067.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-592-000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/31/17 Negotiated Rates—Mercuria Energy America, Inc. (RTS) 7540-11 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5092.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-593-000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/31/17 Negotiated Rates—Consolidated Edison Energy Inc. (RTS) 2275-11 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5095.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-594-000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/31/17 Negotiated Rates—Twin Eagle Resource Management, LLC (RTS) 7300-04 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5093.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-595-000.

Applicants: ANR Storage Company.

Description: ANR Storage Company submits tariff filing per 154.403(d)(2):

Seller's Use—Fuel Filing 2017 to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5106.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-596-000.

Applicants: Questar Pipeline, LLC.

Description: Questar Pipeline, LLC submits tariff filing per 154.204: Statement of Negotiated Rates V13, XTO Energy to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5107.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-597-000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate—Con Ed to Emera—793617 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5114.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-598-000.

Applicants: Great Lakes Gas Transmission Limited Par.

Description: Great Lakes Gas Transmission Limited Partnership submits tariff filing per 154.312: Great Lakes General Section 4 Rate Case to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5130.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-599-000.

Applicants: Texas Eastern Transmission, LP.

Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Negotiated Rates—NJR Energy Services—contract 910531 to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5139.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-600-000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Cap Rel Neg Rate Agmt (Atmos 45527 to Centerpoint 47821) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5140.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-601-000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per

154.204: Cap Rel Neg Rate Agmts (PH 41455 to Texla 47848, BP 47892, Sequent 47900) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5141.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-602-000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Cap Rel Neg Rate Agmts (Atlanta 8438 to various eff 4-1-17) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5144.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-603-000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendments and Cap Rel Related to Neg Rate Agmts (FPL 40097-17, 18; 41619-13) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5146.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-604-000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendments to Neg Rate Agmts (ExGen 43197-4, 43198-5) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5148.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-605-000.

Applicants: Northern Border Pipeline Company.

Description: Northern Border Pipeline Company submits tariff filing per 154.403(d)(2): Compressor Usage Surcharge 2017 to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5149.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-606-000.

Applicants: Bison Pipeline LLC.

Description: Company Use Gas Annual Report of Bison Pipeline LLC.

Filed Date: 03/31/2017.

Accession Number: 20170331-5202.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17-607-000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff

filing per 154.204: Negotiated Rate—North Shore to be effective 4/1/2017.
Filed Date: 03/31/2017.

Accession Number: 20170331–5205.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–608–000.

Applicants: Kern River Gas Transmission Company.

Description: Annual Gas Compressor Fuel Report of Kern River Gas Transmission Company.

Filed Date: 03/31/2017.

Accession Number: 20170331–5206.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–609–000.
Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Negotiated Rate—Peoples to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5210.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–610–000.
Applicants: El Paso Natural Gas Company, L.L.C.

Description: El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.601: Negotiated Rate Agreement Update (APS April 2017) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5213.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–611–000.
Applicants: Horizon Pipeline Company, L.L.C.

Description: Horizon Pipeline Company, L.L.C. submits tariff filing per 154.204: Natural Gas Pipeline Negotiated Rate to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5260.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–612–000.
Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2017–03–31 Ascent to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5269.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–613–000.
Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Agreement (Tenaska 36069) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5278.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–614–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Amendment to Neg Rate Agmt (TVA 35341) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5282.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–615–000.
Applicants: Natural Gas Pipeline Company of America.

Description: Penalty Revenue Crediting Report of Natural Gas Pipeline Company of America LLC.

Filed Date: 03/31/2017.

Accession Number: 20170331–5287.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–616–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Assignment of Cross Timbers to XTO to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5294.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–617–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits tariff filing per 154.204: Permanent Cap Rel (Atmos 21789 to CenterPoint 36119) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5298.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–618–000.

Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2017–03–31 BP, CP, Encana to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5305.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–619–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Amendment to Neg Rate Agmt (BP 37–24) to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5314.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–620–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Negotiated Rate Tenaska to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5326.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–621–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Negotiated Rates—Dalton Expansion—Oglethorpe Capac Rls to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5327.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–622–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Occidental Energy Marketing Negotiated Rate to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5350.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–623–000.

Applicants: Texas Eastern Transmission, LP.

Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Updates to Cashout Mechanisms to be effective 5/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5396.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–624–000.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Company submits tariff filing per 154.204: 20170331 Negotiated Rate to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331–5431.
Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

Docket Numbers: RP17–625–000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.204: DTI—March 31, 2017 Negotiated Rate Agreements to be effective 4/1/2017.

Filed Date: 03/31/2017.

Accession Number: 20170331-5461.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 12, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 3, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07039 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14823-000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Bacon Ridge Pumped Storage Hydro Project to be located near Snyder Township in Blair County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 110 acres and a storage capacity of 1,650 acre-feet at a surface elevation of approximately 2,480

feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-fill dam; (2) a new lower reservoir with a surface area of 43 acres and a storage capacity of 1,980 acre-feet at a surface elevation of 1,620 feet msl; (3) a new 4,840-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide, 25-foot-high powerhouse containing two turbine-generator units with a total rated capacity of 116 megawatts; (5) a new 4,824-foot-long transmission line connecting the powerhouse to the Sandy Ridge Wind Farm 115/34.5-kilovolt circuit; and (6) appurtenant facilities. The proposed project would have an annual generation of 424,616 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267-254-6107.

FERC Contact: Woohee Choi; phone: (202) 502-6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-14823-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14823) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 4, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07089 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17-59-000]

Joint California Complainants v. Pacific Gas and Electric Company; Notice of Complaint

Take notice that on March 31, 2017, pursuant to sections 206 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and 385.212 (2016) and section 206 of the Federal Power Act, 16 U.S.C. 824(e) (2012), Joint California Complainants (Complainant)¹ filed a formal complaint against Pacific Gas and Electric Company (PG&E or Respondent) requesting that the Commission launch an investigation into PG&E's Transmission Owner rates and establish the earliest possible refund effective date, all as more fully explained in the complaint.

The Complainants states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies

¹ The Joint Californian Complainants include the following parties: The Transmission Agency of Northern California; the City of Santa Clara, California; the M-S-R Public Power Agency; the State Water Contractors; the California Public Utilities Commission; the Modesto Irrigation District; and the Sacramento Municipal Utility District.

of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for electronic review in the Commission’s Public Reference Room in Washington, DC. There is an “eSubscription” link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 24, 2017.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–07078 Filed 4–7–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL17–50–000]

Handsome Lake Energy, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 21, 2017, a letter order was issued in Docket No. EL17–50–000 by the Director, Division of Electric Power—East, Office of Energy Market Regulation, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the proposed rate decrease of Handsome Lake Energy, LLC may be unjust, unreasonable, unduly discriminatory or preferential. *Handsome Lake Energy, LLC*, 158 FERC 62,218 (2017).

The refund effective date in Docket No. EL17–50–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17–50–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission’s Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–07082 Filed 4–7–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17–11–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on April 3, 2017, Oncor Electric Delivery Company LLC submitted its tariff filing: Oncor TFO Tariff Rate Changes, to be effective 3/27/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, DC. There is an “eSubscription” link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 24, 2017.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–07085 Filed 4–7–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17–3–000]

Commission Information Collection Activities (FERC–603); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: The Federal Energy Regulatory Commission (Commission or FERC) previously issued a 60-day Notice in the **Federal Register** requesting public comments on FERC–603 (Critical Energy/Electric Infrastructure Information (CEII) Request). The Commission received no comments.

In compliance with the requirements of the Paperwork Reduction Act of 1995, the Commission is submitting the FERC–603 to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the FERC–603 are due by May 10, 2017.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0197 should be sent via email to the Office of Information and Regulatory Affairs: oir_submission@omb.gov, Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC17–3–000, by either of the following methods:

- *eFiling at Commission’s Web site:* <http://www.ferc.gov/docs-filing/efiling.asp>

- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance, contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at DataClearance@FERC.gov, by telephone at (202) 502-8663, and by fax at (202) 273-0873.

SUPPLEMENTARY INFORMATION:
Title: FERC-603, Critical Energy/Electric Infrastructure Information (CEII) Request.

OMB Control No.: 1902-0197.

Type of Request: Three-year extension of the information collection requirements for FERC-603, with no changes to the current reporting requirements.¹ Clarifications and an administrative update, as discussed below, will be included.

Abstract: This collection is used by the Commission to implement procedures for individuals with a valid or legitimate need requesting access to Critical Energy/Electric Infrastructure Information (CEII), which is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), subject to a non-disclosure agreement.

On February, 21, 2003, the Commission issued Order No. 630 (66 FR 52917) to address the appropriate

treatment of Critical Energy Infrastructure Information in the aftermath of the September 11, 2001 terrorist attacks. Given that such information would typically be exempt from mandatory disclosure pursuant to the Freedom of Information Act, the Commission determined that it was important to have a process for individuals with a valid and legitimate need to access certain critical infrastructure information. As such, the Commission's Critical Energy Infrastructure Information process was designed to limit the distribution of critical infrastructure information to those individuals with a need to know in order to avoid having sensitive information fall into the hands of those who may use it to attack the Nation's infrastructure.² This collection was prepared as part of the implementation of the Critical Energy Infrastructure Information request process.

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation Act (FAST Act) into law, which directed the Commission to issue regulations aimed at securing and sharing critical infrastructure information.³ On November 17, 2016, in Order No. 833 (in Docket No. RM16-15), the Commission adopted a Final Rule implementing the FAST Act by

amending its regulations that pertain to the designation, protection, and sharing of Critical Energy/Electric Infrastructure Information (CEII). The Final Rule became effective on February 21, 2017.⁴

FERC-603, Critical Energy/Electric Infrastructure Information (CEII) request form is largely unchanged from the previously approved version. As in the previous version, a person seeking access to CEII must file a request for that information by providing information about their identity and the reason the individual needs the information. With that information, the Commission is able to assess the requester's need for the information against the sensitivity of the information. The form will be updated to refer to CEII as Critical Energy/Electric Infrastructure Information as opposed to Critical Energy Infrastructure Information.⁵ The form will also be updated to provide clarification about the statement of need that CEII requesters must provide by referring individuals to the regulations.⁶ Compliance with these requirements is mandatory. A sample updated CEII request form is attached to this notice.

Type of Respondent: Persons seeking access to CEII.

*Estimate of Annual Burden:*⁷ The Commission estimates the total annual burden and cost⁸ for this information collection as follows.

FERC-603: CRITICAL ENERGY/ELECTRIC INFRASTRUCTURE INFORMATION REQUEST

Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden and cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent (\$) (5)-(1)
200	1	200	0.3 hrs. (rounded); \$22.35.	60 hrs. (rounded); \$4,470	\$22.35

Comments: Comments are invited on:
(1) Whether the collection of

information is necessary for the proper performance of the functions of the

Commission, including whether the information will have practical utility;

¹ The Commission previously issued a 60-day Notice in the **Federal Register** (82 FR 8735, 1/30/2017) requesting public comments on FERC-603. The Commission received no comments.

² The Commission defined Critical Energy Infrastructure Information to include information about "existing or proposed critical infrastructure that: (i) Relates to the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, and (iv) does not simply give the location of the critical infrastructure. Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

³ Fixing America's Surface Transportation Act, Pub. L. 114-94, 61,003, 129 Stat. 1312, 1773-1779

(2015) (to be codified at 16 U.S.C. 824 *et seq.*) (FAST Act).

⁴ The sample CEII Request Form will be posted with this Notice in Docket No. IC17-3 in eLibrary, but it will not be published in the **Federal Register**.

⁵ Section 215A(a)(3) of the FAST Act defined Critical Electric Infrastructure Information to include information that qualifies as critical energy infrastructure information under the Commission's regulations. The Commission therefore defined the term "Critical Electric Infrastructure Information" to include "Critical Energy Infrastructure Information" as defined under the Commission's existing regulations and determined to refer to both types of information, collectively, as CEII.

⁶ Specifically, 18 CFR 388.113(g)(5)(i)(b) states that a Statement of Need must include: The extent to which a particular function is dependent upon access to the information; why the function cannot be achieved or performed without access to the information; an explanation of whether other

information is available to the requester that could facilitate the same objective; how long the information will be needed; whether or not the information is needed to participate in a specific proceeding (with that proceeding identified); and an explanation of whether the information is needed expeditiously.

⁷ "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

⁸ The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2016 annual average of \$154,647 (for salary plus benefits), the average hourly cost is \$74.50/hour.

(2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-07084 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17-197-003.
Applicants: Dominion Cove Point LNG, LP.

Description: Dominion Cove Point LNG, LP submits tariff filing per 385.602: DCP-RP17-197 Gas Quality Stipulation and Agreement.

Filed Date: 03/29/2017.

Accession Number: 20170329-5233.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-565-000.
Applicants: Florida Gas Transmission Company, LLC.

Description: Florida Gas Transmission Company, LLC submits tariff filing per 154.204: Exhibit B Update—add Contracts 119233 and 119623 to be effective 4/1/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5037.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-566-000.
Applicants: Elba Express Company, L.L.C.

Description: Elba Express Company, L.L.C. submits tariff filing per 154.203: Annual Interruptible Revenue Crediting Report.

Filed Date: 03/29/2017.

Accession Number: 20170329-5060.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-567-000.
Applicants: Northwest Pipeline LLC.
Description: Northwest Pipeline LLC submits tariff filing per 154.204:

Extension of Time Provisions Filing to be effective 5/1/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5100.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-568-000.

Applicants: Dominion Transmission, Inc.

Description: Dominion Transmission, Inc. submits tariff filing per 154.204: DTI—March 29, 2017 Administrative Changes to be effective 4/29/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5109.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-569-000.

Applicants: MoGas Pipeline LLC.

Description: MoGas Pipeline LLC submits tariff filing per 154.204: Filing to Implement Proposed GTC Section 7.41 in MoGas FERC Gas Tariff to be effective 5/1/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5124.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-570-000.

Applicants: Horizon Pipeline Company, L.L.C.

Description: Penalty Revenue Crediting Report of Horizon Pipeline Company, L.L.C.

Filed Date: 03/29/2017.

Accession Number: 20170329-5167.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-571-000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/29/17 Negotiated Rates—ENI Trading & Shipping (RTS) 7825-02 to be effective 4/1/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5195.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17-572-000.

Applicants: Alliance Pipeline L.P.

Description: Alliance Pipeline L.P. submits tariff filing per 154.204: Negotiated Contracts March 2017 to be effective 4/1/2017.

Filed Date: 03/29/2017.

Accession Number: 20170329-5197.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: March 30, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-07038 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL17-49-000]

NRG Power Marketing LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On February 27, 2017, a letter order was issued in Docket No. EL17-49-000 by the Director, Division of Electric Power—East, Office of Energy Market Regulation, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the proposed rate decrease of NRG Power Marketing LLC may be unjust, unreasonable, unduly discriminatory or preferential. *NRG Power Marketing LLC*, 158 FERC 62,140 (2017).

The refund effective date in Docket No. EL17-49-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17-49-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-07081 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket Nos. EL17-51-000]

Arizona Public Service Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 28, 2017, a letter order was issued in Docket No. EL17-51-000 by the Director, Division of Electric Power—West, Office of Energy Market Regulation, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the proposed revisions of Arizona Public Service Company to its Open Access Transmission Tariff may be unjust, unreasonable, unduly discriminatory or preferential. *Arizona Public Service Company*, 158 FERC 62,241 (2017).

The refund effective date in Docket No. EL17-51-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17-51-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-07083 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 14820-000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Allegheny Pumped Storage Hydro Project to be located near Juniata Township in Blair County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant

the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 100 acres and a storage capacity of 1,500 acre-feet at a surface elevation of approximately 2,500 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-fill dam; (2) a new lower reservoir with a surface area of 50 acres and a storage capacity of 1,800 acre-feet at a surface elevation of 1,500 feet msl; (3) a new 3,760-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide, 25-foot-high powerhouse containing two turbine-generator units with a total rated capacity of 123 megawatts; (5) a new 3,924-foot-long transmission line connecting the powerhouse to the Summit Claysburg 115-kilovolt circuit owned by the Pennsylvania Electric Company; and (6) appurtenant facilities. The proposed project would have an annual generation of 448,854 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267-254-6107.

FERC Contact: Woohee Choi; phone: (202) 502-6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The first page of any filing should include docket number P-14820-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14820) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 4, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-07088 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #1**

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17-101-000.

Applicants: Beebe 1B Renewable Energy, LLC, Beebe Renewable Energy, LLC, Bluestem Wind Energy, LLC, Cassia Gulch Wind Park LLC, Cow Branch Wind Power, LLC, CR Clearing, LLC, Criterion Power Partners, LLC, Fourmile Wind Energy, LLC, Harvest Windfarm, LLC, Harvest Windfarm II, LLC, High Mesa Energy, LLC, Michigan Wind 1, LLC, Michigan Wind 2, LLC, Shooting Star Wind Project, LLC, Tuana Springs Energy, LLC, Wind Capital Holdings, LLC, John Hancock Life Insurance Company (U.S.A.).

Description: Application of the Exelon Applicants, et al. for Authorization under Section 203 of the Federal Power Act, Request for Expedited Action and Request for Confidential Treatment.

Filed Date: 4/3/17.

Accession Number: 20170403-5583.

Comments Due: 5 p.m. ET 4/24/17.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17-90-000.

Applicants: AEM Wind, LLC.

Description: Self-Certification of EWG Status of AEM Wind, LLC.

Filed Date: 4/4/17.

Accession Number: 20170404-5218.

Comments Due: 5 p.m. ET 4/25/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17-1069-001.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: Tariff Amendment: MAIT Submits Amendment of Pending Tariff Filing under ER17-1069 to be effective 12/31/9998.

Filed Date: 4/4/17.

Accession Number: 20170404-5126.

Comments Due: 5 p.m. ET 4/25/17.

Docket Numbers: ER17-1377-000.

Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.

Description: § 205(d) Rate Filing: 2017 Interchange Agreement Annual Filing to be effective 1/1/2017.

Filed Date: 4/3/17.

Accession Number: 20170403-5502.

Comments Due: 5 p.m. ET 4/24/17.

Docket Numbers: ER17-1378-000.

Applicants: Commerce Energy, Inc.

Description: § 205(d) Rate Filing: Notice of Succession to Market-Based Rate Tariff to be effective 4/4/2017.

Filed Date: 4/3/17.

Accession Number: 20170403-5503.

Comments Due: 5 p.m. ET 4/24/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 4, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07080 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17-12-000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on April 3, 2017, Oncor Electric Delivery Company LLC

submitted its tariff filing: Oncor Tex-La Tariff Rate Changes, to be effective 3/27/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern Time on April 24, 2017.

Dated: April 4, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07086 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt

of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP15-554-000	3-20-2017	William F. Limpert, Lynn S. Limpert.
2. CP15-554-000	3-20-2017	William F. Limpert, Lynn S. Limpert.
Exempt:		
1. CP15-558-000	3-23-2017	U.S. Senators. ¹

¹ Senators Cory A. Booker and Robert Menendez.

Dated: April 4, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07079 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4451-020]

Somersworth Hydro Company, Inc., City of Somersworth, Green Mountain Power Corporation; Notice of Application for Partial Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On February 27, 2017, Somersworth Hydro Company, Inc. and the City of Somersworth (transferors/co-licensees) and Green Mountain Power Corporation (transferee) filed an application for the transfer of license of the Lower Great Falls Project No. 4451. The project is located on the Salmon Falls River in Strafford County, New Hampshire and York County, Maine. The project does not occupy Federal lands.

The transferors and transferee seek Commission approval to partially transfer the license for the Lower Great Falls Project from the Somersworth Hydro Company, Inc. and the City of Somersworth as co-licensees to the City of Somersworth and Green Mountain Power Corporation as co-licensees.

Applicant's Contacts: For Transferors: Mr. Stephen Pike, Vice President, Operations, Somersworth Hydro Company, Inc. and the City of Somersworth, c/o Enel Green Power North America, Inc., 1 Tech Drive, Suite 220, Andover, MA 01810, Email: Stephen.Pike@enel.com; General Counsel, Enel Green Power North America, Inc., 1 Tech Drive, Suite 220, Andover, MA 01810.

For Transferee: Ms. Charlotte Ancel, Vice President, Power Supply & General Counsel, Green Mountain Power Corporation, 163 Acorn Lane, Colchester; VT 05446, email: Charlotte.Ancel@greenmountainpower.com; Ms. Elizabeth Kohler, Esq., Downs Rachlin Martin PLLC, 199 Main Street, P.O. Box

190, Burlington, VT 05402, email: EKohler@drm.com; and General Counsel, Enel Green Power North America, Inc., 1 Tech Drive, Suite 220, Andover, MA 01810, Email: generalcounsel@enel.com.

FERC Contact: Patricia W. Gillis, (202) 502-8735, patricia.gillis@ferc.gov.

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-4451-020.

Dated: April 4, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-07087 Filed 4-7-17; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0007; FRL-9959-58]

Pesticide Product Registration; Receipt of Application for New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application to register a pesticide product containing an active ingredient not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on this application.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as show in the body of this document 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:* 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>.

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: RDfRNNotices@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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. Registration Application

EPA has received an application to register a pesticide product containing an active ingredient not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on this application. Notice of receipt of this application does not imply a decision by the Agency on this application. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation Web site for additional information on this process: (<http://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions>).

EPA received the following application to register a new active ingredient: *File Symbol:* 84886-U. *Docket ID number:* EPA-HQ-OPP-2016-0662. *Applicant:* Koch Agronomics Services, LLC, 4111 37th Street N., Wichita, KS 67220. *Product name:* G77. *Active ingredient:* Nitrification Inhibitor—Urea, reaction products with ammonium hydroxide, N-

cyanoguanidine and formaldehyde at 14%. *Proposed use:* Prevents nitrification. *Contact:* RD.

Authority: 7 U.S.C. 136 *et. seq.*

Dated: March 7, 2017.

Hamaad Syed,

Acting Director, Information Technology & Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017-07126 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2016-0663; FRL-9955-85]

Registration Review; Biopesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this document, EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before June 9, 2017.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., 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:* 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>.

FOR FURTHER INFORMATION CONTACT: For pesticide specific information contact: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: BPPDFRNotices@epa.gov. Also include the docket ID number listed in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-5026; fax number: (703) 308-8090; email address: costello.kevin@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 environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

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

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s)

discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136a(g)) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that

is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide’s registration review begins when the Agency establishes a docket for the pesticide’s registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE 1—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.
Indole-3-Acetic Acid, Case No. 6205	EPA-HQ-OPP-2016-0665
<i>Colletotrichum gloeosporioides</i> , Case No. 4103	EPA-HQ-OPP-2016-0685
Lysophosphatidylethanolamine (LPE), Case No. 6043	EPA-HQ-OPP-2017-0059
Sucrose Octanoate, Case No. 6027	EPA-HQ-OPP-2017-0087

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides.

The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency’s Web site at http://www.epa.gov/oppsrrd1/registration_review/schedule.htm. Information on the Agency’s registration review program and its implementing regulation may be seen at http://www.epa.gov/oppsrrd1/registration_review.

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide’s registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any

material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide’s registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 28, 2017.

Robert McNally,
 Director, Biopesticides and Pollution
 Prevention Division, Office of Pesticide
 Programs.

[FR Doc. 2017-07129 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[9956–72–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Montana**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces EPA's approval of the State of Montana's request to revise its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems

that meet the applicable subpart D requirements.

On November 22, 2016, the Montana Department of Environmental Quality (MT DEQ) submitted an application titled "Fees, Applications and Compliance Tracking System" for revision to its EPA-approved program under title 40 CFR to allow new electronic reporting. EPA reviewed MT DEQ's request to revise its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Montana's request to revise its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR parts 122 and 125 is being published in the **Federal Register**.

MT DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017–07139 Filed 4–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[9956–81–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Alaska**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces EPA's approval of the State of Alaska's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 10, 2017 for the State of Alaska's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On December 20, 2016, the Alaska Department of Environmental Conservation (ADEC) submitted an amended application titled "Compliance Monitoring Data Portal" for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed ADEC's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Alaska's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

ADEC was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Alaska's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Alaska's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017-07142 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9960-16-Region 1]

Notice of Availability of Final NPDES General Permits for Discharges From Potable Water Treatment Facilities in Massachusetts and New Hampshire: The Potable Water Treatment Facility General Permit (PWTF GP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Final NPDES General Permits MAG640000 and NHG640000.

SUMMARY: The Director of the Office of Ecosystem Protection, U.S. Environmental Protection Agency (EPA)—Region 1, is providing a notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permits (GP) for discharges from potable water treatment facilities (PWTFs) to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. The final General Permits establish Notice of Intent (NOI) requirements, effluent limitations, standard and special conditions, prohibitions, and best management practices (BMPs) for sites with discharges from potable water treatment facilities. These General Permits replace the previous PWTF GP that expired on October 2, 2014.

DATES: The General Permits shall be effective on March 6, 2017 and will expire five (5) years from the effective date. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review on March 20, 2017. Under section 509(b) of the Clean Water Act, judicial review can be had by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the final General Permits may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding holidays, from Mark Voorhees, U.S. EPA—Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Mail Code OEP06-4, Boston, MA 02109-3912; telephone: 617-918-1537; email: voorhees.mark@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is reissuing two General Permits for wastewater discharges from potable water treatment facilities in Massachusetts and New Hampshire, that are generally less than or equal to 1.0 million gallons per day (MGD) and that use one or more of the following treatment processes: Clarification, Coagulation, Media Filtration, Membrane filtration (not including reverse osmosis), and Disinfection. While the final General Permits are two

distinct permits, for convenience, EPA has grouped them together in a single document and has provided a single fact sheet. This document refers to the draft General "Permit" in the singular. The final General Permit, fact sheet, and appendices are available at: <http://www.epa.gov/region1/npdes/pwtfgp.html>.

The final General Permit establishes Notice of Intent (NOI) requirements, effluent limitations and requirements based on technology-based considerations, best professional judgment (BPJ), and water quality considerations. The effluent limits established in the final General Permit assure that the surface water quality standards of the receiving water(s) are protected, attained, and/or maintained. The permit also contains BMP requirements in order to ensure EPA has the information necessary to ensure compliance and to ensure discharges meet water quality standards.

Obtaining Authorization: In order to obtain authorization to discharge, PWTF operators must submit a complete and accurate NOI containing the information in Appendix IV of the General Permit. This information shall be submitted to both EPA and the appropriate state, as described in Appendix IV. NOIs may be submitted to EPA electronically or via mail at the addresses provided below:

- (1) *Email:* pwtf.generalpermit@epa.gov, or
- (2) *Mail:* Mark Voorhees, U.S. EPA—Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Mail Code OEP06-4, Boston, MA 02109-3912.

All NOIs submitted to EPA after December 21, 2020 must be submitted electronically.

Facilities currently authorized to discharge under the Expired PWTF GP must submit a NOI within 90 days of the effective date of the final General Permit. Operators with new discharges must submit a NOI at least 60 days prior to initiating discharges and following the effective date of the final General Permit. Facilities with existing discharges that were not authorized under the Expired PWTF GP and which use aluminum in their treatment process must conduct more extensive water quality sampling data and submit this information with the NOI within 6 months of the effective date of the final General Permit.

Operators must meet the eligibility requirements of the General Permit prior to submission of a NOI. An operator will be authorized to discharge under the General Permit upon receipt of written notice from EPA following EPA's web posting of the submitted NOI. EPA will

authorize the discharge, request additional information, or require the operator to apply for an alternative permit or an individual permit.

Other Legal Requirements:

Endangered Species Act (ESA): EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from facilities seeking coverage under the PWTG GP. EPA has received concurrence from the National Marine Fisheries Service in connection with this General Permit.

In the fact sheet that accompanied the draft General Permit, EPA stated that we would seek concurrence from the U.S. Fish and Wildlife Service (USFWS) regarding our determination of effect on endangered species under their jurisdiction. Following the release of the draft General Permit, EPA had discussions with USFWS on this matter. Based on discussions with USFWS, EPA has determined that this General Permit has “no effect.” The reason for this determination is because each Notice of Intent (NOI) that is submitted must assess site specific endangered species impacts using USFWS’ Information, Planning, and Conservation (IPac) Web site, available at <https://ecos.fws.gov/ipac/>. Based on the findings using this Web site, the applicant can either make a determination of impacts or if there are questions, seek input from USFWS directly. Since each NOI is individually screened prior to submission, the General Permit has no effect.

National Historic Preservation Act (NHPA): In accordance with NHPA, EPA has established provisions and documentation requirements for sites seeking coverage under the PWTG GP to ensure that discharges or actions taken under this General Permit will not adversely affect historic properties and places.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: March 9, 2017.

Deborah A. Szaro,

Acting Regional Administrator, Region 1.

[FR Doc. 2017-07149 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R07-OAR-2016-0779; FRL-9960-71-Region 7]

Adequacy Determination for the St. Louis Area 2008 8-Hour Ozone Redesignation Request and Maintenance State Implementation Plan, Motor Vehicle Emissions Budgets for Transportation Conformity Purposes; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy determination.

SUMMARY: The Environmental Protection Agency (EPA) is notifying the public that the St. Louis area 2008 8-hour ozone redesignation request and maintenance plan motor vehicle emission budgets (MVEBs) for volatile organic compounds (VOCs) and nitrogen oxides (NO_x) are adequate for transportation conformity purposes. As a result, these budgets must be used by the State of Missouri for future transportation conformity determinations for the St. Louis area.

DATES: This document is effective April 24, 2017.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, at (913) 551-7039, by email at Hamilton.heather@epa.gov, or by mail at U.S. Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” or “our” refer to EPA. The word “budget(s)” refers to the motor vehicle emission budgets (MVEBs) for volatile organic compounds and nitrogen oxides. For the purposes of this document, “SIP” refers to the St. Louis Area 2008 8-Hour Ozone Redesignation Request and Maintenance State Implementation Plan, submitted by Missouri Department of Natural Resources to EPA as a SIP revision on September 12, 2016.

This document is an announcement of a finding that EPA has already made. EPA Region 7 sent a letter to Missouri Department of Natural Resources on December 21, 2016, stating that the MVEBs contained in the Redesignation Request and Maintenance Plan are adequate for transportation conformity purposes. As a result of EPA’s finding, the State of Missouri must use the MVEBs from the September 12, 2016, Redesignation Request and Maintenance Plan or future transportation conformity determinations for the St. Louis area.

The finding is available at EPA’s conformity Web site: <https://www.epa.gov/state-and-local-transportation>.

Transportation conformity is required by section 176(c) of the Clean Air Act, as amended in 1990. EPA’s conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedure for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP’s motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA’s completeness review, and it should not be used to prejudge EPA’s ultimate approval of the SIP. EPA plans to take action on the SIP at a later date. We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f), and have followed this rule in making our adequacy determination.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 20, 2017.

Edward H. Chu,

Acting Regional Administrator, Region 7.

[FR Doc. 2017-07026 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2015-0765; FRL-9960-45-ORD]

Board of Scientific Counselors Executive Committee; Notification of Public Teleconference and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting and public comment.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the U.S. Environmental Protection Agency hereby provides notice that the Board of Scientific Counselors (BOSC) Executive Committee (EC) will host a public teleconference. The meeting will be held on Tuesday, April 11, 2017 from 1:00 p.m. to 5:00 p.m. All times noted are Eastern Time and are approximate. The primary agenda items include:

Deliberate on the draft Homeland Security Subcommittee report; finalize and approve the BOSC subcommittee reports for the Air, Climate and Energy, Chemical Safety for Sustainability, Safe and Sustainable Water Resources, and Sustainable and Healthy Communities Research Programs; and finalize and approve the cross-cutting research annual reports for Environmental Justice, Climate Change, Children's Environmental Health, and Nitrogen and Co-pollutants. There will be a public comment period at 1:25 p.m. For information on registering to participate on the call or to provide public comment, please see the **SUPPLEMENTARY INFORMATION** section below. Due to unforeseen administrative circumstances, EPA is announcing this meeting with less than fifteen calendar days' notice.

DATES: The BOSC EC meeting will be held on Tuesday, April 11, 2017 from 1:00 p.m. to 5:00 p.m. All times noted are Eastern Time and are approximate.

FOR FURTHER INFORMATION CONTACT:

Questions or correspondence concerning the meeting should be directed to Tom Tracy, Designated Federal Officer, Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW., (MC 8104 R), Washington, DC 20460; by telephone at 202-564-6518; fax at 202-565-2911; or via email at tracy.tom@epa.gov.

SUPPLEMENTARY INFORMATION: The Charter of the BOSC states that the advisory committee shall provide independent advice to the Administrator on technical and management aspects of the ORD's research program. Additional information about the BOSC is available at: <http://www2.epa.gov/bosc>.

Registration: In order to participate in the meeting, you must register at the following site: <https://2017-bosc-ec-teleconference.eventbrite.com>. Once you have completed the online registration, you will be contacted and provided the information to access the teleconference. Registration will close on April 10, 2017.

Oral Statements: Members of the public who wish to provide oral comment during the meeting must preregister. Individuals or groups making remarks during the public comment period will be limited to five (5) minutes. To accommodate the number of people who want to address the BOSC EC, only one representative of a particular community, organization, or group will be allowed to speak.

Written Statements: Written comments for the public meeting must be received by Wednesday, April 5,

2017, and will be included in the materials distributed to the BOSC EC prior to the meeting. Written comments should be sent to Tom Tracy, Environmental Protection Agency, via email at tracy.tom@epa.gov or by mail to 1200 Pennsylvania Avenue NW., (MC 8104 R), Washington, DC 20460, or submitted through regulations.gov, Docket ID No. EPA-HQ-ORD-2015-0765. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted online at regulations.gov.

Information about Services for Individuals with Disabilities: For information about services for individuals with disabilities, please contact Tom Tracy, at 202-564-6518 or via email at tracy.tom@epa.gov. To request special accommodations, please contact Tom Tracy no later than April 5, 2017, to give the Environmental Protection Agency sufficient time to process your request. All requests should be sent to the address, email, or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: March 16, 2017.

Fred S. Hauchman,

Director, Office of Science Policy.

[FR Doc. 2017-07150 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0070; FRL-9959-66]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel their registrations and to amend their product registrations to terminate uses. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled and

uses terminated only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2017-0070, 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:** 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>.

FOR FURTHER INFORMATION CONTACT:

Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0367; email address: green.christopher@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 environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or

CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. What action is the agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain pesticide products and amend product registrations to terminate

certain uses. The affected products and the registrants making the requests are identified in Tables 1–3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order in the **Federal Register** canceling and amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredient
100–1079	100	Bonzi II Ornamental Growth Regulator	Pacllobutrazol.
241–362	241	Pursuit Dimethenamid Herbicide	Imazethapyr; & Dimethenamid.
279–9563	279	Rovral Fungicide	Iprodione.
279–9565	279	Rovral R Flowable Fungicide	Iprodione.
279–9566	279	Rovral WG Fungicide	Iprodione.
279–9567	279	Rovral 50 SP Fungicide	Iprodione.
279–9569	279	Rovral Brand 75WG Fungicide	Iprodione.
303–223	303	Beaucoup Germicidal Detergent	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
464–705	464	Ucarcide 250 Preservative	Glutaraldehyde.
464–706	464	Ucarcide 225 Preservative	Glutaraldehyde.
498–180	498	Champion Sprayon Disinfectant Formula 4	Isopropyl alcohol; & o-Phenylphenol (NO INERT USE).
706–69	706	Claire Disinfectant Spray	Ethanol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
875–191	875	KL-IS	Phosphoric acid; & Oxirane, methyl-, polymer with oxirane, monobutyl ether, compd. with iodine.
954–13	954	Spacide	2-Benzyl-4-chlorophenol; & o-Phenylphenol (NO INERT USE).
1020–4	1020	Oakite Chlor-Tergent	Trichloro-s-triazinetriene.
1072–11	1072	K.O. Dyne	Nonylphenoxypolyethoxyethanol-iodine complex.
1072–19	1072	Babsyne-20	Nonylphenoxypolyethoxyethanol-iodine complex.
1270–237	1270	Zep Refresh II	Ethanol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
1839–189	1839	BTC 2125M-RTU200 Sanitizer	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); & Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
2296–101	2296	Easy-Dab Bacteriostatic Creme Cleanser ...	o-Phenylphenol (NO INERT USE).
5813–84	5813	Necktie	1,3-Dichloro-5-ethyl-5-methylhydantoin; 1,3-Dichloro-5,5-dimethylhydantoin; & 2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl-.
7969–148	7969	BAS 661 00 H	Dicamba; & Dimethenamid.
10324–25	10324	Maquat DS 1412-10%	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–74	10324	Aqua Foaming Bowl & Bathroom Cleaner ...	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–89	10324	Maquat MC5814-80%	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324–95	10324	Ma-Brom	Sodium bromide.
10324–123	10324	Econo-Lemon 10 Scented	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324–137	10324	Maquat FL-1	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324–138	10324	Maquat FL-2	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324–169	10324	Maquat 615-MR	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; & 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–174	10324	Maquat 86-MR	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; & 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–184	10324	Maquat 86-HMR	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; & 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredient
10324-197	10324	Maguard QSX-500	1-Octadecanaminium,N,N-dimethyl-N-[3-(trihydroxysilyl)propyl],chloride.
10324-199	10324	Maquat MC1412-50%FC	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324-200	10324	Maquat MC1412-20%FC	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324-203	10324	Maquat MC1412-40%FC	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324-217	10324	STIX	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); & Phosphoric acid.
10324-218	10324	Kling	Hydrochloric acid; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; & 1-Decanaminium, N-decyl-,N-dimethyl-, chloride.
10807-438	10807	Purge Air Sanitizer	Dipropylene glycol; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); & Triethylene glycol.
33176-24	33176	Arysol Brand Surface Disinfectant Spray	Ethanol; Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); & Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
39967-81	39967	Hospital Broad Brand	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
39967-83	39967	Ocide Hospital Cleaner-Disinfectant	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
39967-88	39967	Phenocide 256	2-Benzyl-4-chlorophenol; & o-Phenylphenol (NO INERT USE).
39967-89	39967	Phenocide 128	2-Benzyl-4-chlorophenol; & o-Phenylphenol (NO INERT USE).
47000-19	47000	Dy-Fly I Livestock Spray	MGK 264; Pyrethrins; & Piperonyl butoxide.
47000-101	47000	CT-42 Lice Spray	Pyrethrins; & Piperonyl butoxide.
48222-7	48222	Agro-K Copper Lite	Copper sulfate pentahydrate.
49547-5	49547	Alen Pine Oil 60	Pine oil.
51873-8	51873	De-Cut	Maleic hydrazide, potassium salt.
57538-29	57538	Fortified Stimulate Yield Enhancer	Indole-3-acetic acid; Indole-3-butyric acid; Gibberellic acid; & Cytokinin (as kinetin).
57538-36	57538	Stimulate Fruit Thinner	Gibberellic acid; & Cytokinin (as kinetin).
57538-37	57538	Stimulate Grain Filler	Indole-3-butyric acid; Gibberellic acid; & Cytokinin (as kinetin).
57538-38	57538	Stimulate Power	Cytokinin (as kinetin); & Gibberellic acid.
57538-44	57538	Stimulate Flower Fertility	Indole-3-acetic acid; Indole-3-butyric acid; Gibberellic acid; & Cytokinin (as kinetin).
57538-45	57538	Stimulate Bud Former	Cytokinin (as kinetin); & Gibberellic acid.
57538-46	57538	Stimulate Seed Germ	Indole-3-acetic acid; Indole-3-butyric acid; Gibberellic acid; & Cytokinin (as kinetin).
57538-47	57538	Stimulate Fruit Sizer	Indole-3-butyric acid; Indole-3-acetic acid; Gibberellic acid; & Cytokinin (as kinetin).
57538-48	57538	Stimulate Root Growth	Gibberellic acid; Indole-3-butyric acid; & Cytokinin (as kinetin).
59106-3	59106	BioClear 550 Fizzy Tabs	2,2-Dibromo-3-nitrilopropionamide; & 1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile.
70385-1	70385	Microban Disinfectant Spray	Bromine; o-Phenylphenol (NO INERT USE); & Benzenemethanaminium, N,N-dimethyl-N-(2-(2-(4-(1,1,3,3-tetramethylbutyl)phenoxy)ethoxy)ethyl)-, chloride.
72138-1	72138	Real Pine Cleaner Disinfectant Deodorizer	Pine oil.
87538-3	87538	Monofoil Screen/Glass Protectant	1-Octadecanaminium,N,N-dimethyl-N-[3-(trihydroxysilyl)propyl],chloride.
CA-060027	100	Gramoxone Inteon	Paraquat dichloride.
CO-120003	12455	Conrac All-Weather Blox	Bromadiolone.
OR-070024	400	Enhance	Captan; & Carboxin.
OR-080021	66222	ABBA 0.15EC	Abamectin.
OR-080022	91411	DuPont Mankocide Fungicide	Mancozeb; & Copper hydroxide.
OR-080032	400	Dimilin 2L	Diflubenzuron.
OR-110003	264	Osprey Herbicide	Mesosulfuron-methyl.
OR-110012	400	Vitavax Flowable Fungicide	Carboxin.
OR-120008	100	Switch 62.5WG	Fludioxonil; & Cyprodinil.
WA-000033	19713	IDA, Inc. Diuron 80W	Diuron.
WA-000034	19713	Drexel Diuron 4L Herbicide	Diuron.
WA-030012	66222	Galigan 2E	Oxyfluorfen.
WA-030024	66222	Thionex 3 EC Insecticide	Endosulfan.
WA-030027	66222	Thionex 3 EC Insecticide	Endosulfan.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredient
WA-050010	19713	Drexel Atrazine 90 DF Herbicide	Atrazine.
WA-110005	61842	Lorox DF	Linuron.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
100-780	100	Tilt 45W	Propiconazole	Pre-Harvest uses and associated pre-harvest label language on Tilt 45W for the following crops: Celery, cereals (wheat, barley, rye, triticale and oats), citrus, grasses grown for seed, peanuts, pecans, pineapple, rice, wild rice, stone fruit and sugarcane without prejudice.
264-645	264	Glufosinate-Ammonium Manufacturing-Use Product.	Glufosinate	Rice.
264-646	264	Glufosinate-Ammonium Technical.	Glufosinate	Rice.
264-660	264	Liberty Herbicide	Glufosinate	Rice.
264-829	264	Liberty 280 SL Herbicide.	Glufosinate	Rice.
432-1525	432	Sevin Brand Carbaryl Technical.	Carbaryl	Oyster beds & pet (collars only).
1021-2801	1021	MGK Formula 74611 ...	Pyrethrins	Residential Indoor, residential outdoor & indoor non-food/food handling establishments.
1839-63	1839	BTC 1010	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.	Golf/commercial turf/lawns, golf courses.
1839-77	1839	BTC 818	1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; & 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.	Golf courses.
1839-119	1839	BTC 818-80%	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; & 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.	Golf courses.
1839-135	1839	BTC 1010-80%	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.	Golf/commercial turf/lawns, golf courses.
19713-75	19713	Drexel Carbaryl Technical.	Carbaryl	Oyster beds & bet collars.
61842-20	61842	Layby Pro Herbicide	Diuron; & Linuron	Sweet corn.
61842-21	61842	Linex 4L Herbicide	Linuron	Sweet corn.
61842-22	61842	Linuron Technical	Linuron	Sweet corn.
61842-23	61842	Lorox DF	Linuron	Sweet corn.
61842-24	61842	Linuron Flake Technical	Linuron	Sweet corn.
61842-32	61842	Linuron Technical	Linuron	Sweet corn.
61842-35	61842	Sevin Brand Technical Carbaryl Insecticide.	Carbaryl	Oyster beds & pet (collars only).
61842-36	61842	Carbaryl 97.5% Manufacturing Use Concentrate Insecticide.	Carbaryl	Oyster beds & pet (collars only).

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT—Continued

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
73049-427	73049	Foray 48B	Bacillus thuringiensis Subsp. Kurstaki, Strain ABTS-351.	Non-grass animal feeds, pome fruits, stone fruits, tree nuts, citrus fruits, small fruits and berries, grape, banana, tropical fruits, kiwi, pineapple, melon, root and tuber vegetables, leaves of root and tuber vegetables, bulb vegetables, leafy vegetables, legume vegetables, foliage of legume vegetables, fruiting vegetables, brassica (cole) leafy vegetables, cucurbit vegetables, artichoke, asparagus, malanga, watercress, corn, herbs and spices, mint, avocado, rice, cotton, canola/rapeseed, hops, jojoba, peanut, persimmon, pomegranate, safflower, sorghum, soybean, sunflower, small grains & tobacco.
89816-2	89816	Mebrom 100	Methyl bromide (NO INERT USE).	Caneberries, (raspberries, blackberries, boysenberries), golf course tees, greens and fairways, athletic fields, tobacco seedling trays, orchard replant, ornamentals and forest seedlings.
90736-2	90736	Tebuconazole Tech	Tebuconazole	Seed treatment uses on barley, corn, oats & wheat.

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in

Table 1 and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first

part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419-8300.
241	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528.
264	Bayer CropScience LP, 2 T. W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
303	Huntington Professional Products, A Service of Ecolab, Inc., 1 Ecolab Place, St. Paul, MN 55102.
400	Macdermid Agricultural Solutions, Inc., c/o Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
432	Bayer Environmental Science, A Division of Bayer CropScience, LP, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709.
464	The Dow Chemical Co., 1501 Larkin Center Drive, 200 Larkin Center, Midland, MI 48674.
498	Chase Products Co., P.O. Box 70, Maywood, IL 60153.
706	Claire Manufacturing Company, Agent Name: Regwest Company, LLC, 8203 West 20th Street, Suite A, Greeley, CO 80634-4696.
875	Diversey, Inc., 1410 Newman Road, Racine, WI 53406.
954	King Research, Inc., Agent Name: Lewis & Harrison, LLC, 122 C Street NW., Suite 505, Washington, DC 20001.
1020	Chemetall US, Inc., 675 Central Avenue, New Providence, NJ 07974-0007.
1021	McLaughlin Gormley King Company, 8810 Tenth Ave., North, Minneapolis, MN 55427-4319.
1072	Gea Farm Technologies, Inc., Agent Name: Regwest Company, LLC, 8203 West 20th Street, Suite A, Greeley, CO 80634-4696.
1270	Zep, Inc., c/o Compliance Services, 1259 Seaboard Industrial Blvd., NW, Atlanta, GA 30318.
1839	Stepan Company, 22 W. Frontage Rd., Northfield, IL 60093.
2296	National Chemical Laboratories, Inc., 401 N. 10th Street, Philadelphia, PA 19123.
5813	The Clorox Co., P.O. Box 493, Pleasanton, CA 94566-0803.
7969	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528.
10324	Mason Chemical Company, 723 W. Algonquin Rd., Suite B, Arlington Heights, IL 60005.
10807	Amrep, Inc., Agent Name: Zep, Inc., c/o Compliance Services, 1259 Seaboard Industrial Blvd. NW., Atlanta, GA 30318.
12455	Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, WI 53704.
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113-0327.
33176	Amrep, Inc., Agent Name: Zep, Inc., c/o Compliance Services, 1259 Seaboard Industrial Blvd. NW., Atlanta, GA 30318.
39967	Lanxess Corporation, 111 RIDC Park West Drive, Pittsburgh, PA 15275-1112.
47000	Chem-Tech, Ltd., 110 Hopkins Drive, Randolph, WI 53956.
48222	Agro-K Corporation, Agent Name: Spring Trading Company, 203 Dogwood Trail, Magnolia, TX 77354.
49547	Alen Del Norte, Agent Name: Delta Analytical Corp., 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
51873	Fair Products, Inc., P.O. Box 386, Cary, NC 27512.
57538	Stoller Enterprises, Inc., Agent Name: Spring Trading Company, 203 Dogwood Trail, Magnolia, TX 77354.
59106	The Lubrizol Corporation, 29400 Lakeland Blvd., Wickliffe, OH 44092-2298.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS—Continued

EPA company No.	Company name and address
61842	Tessengerlo Kerley, Inc., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct. NW., Gig Harbor, WA 98332.
66222	Makhteshim Agan of North America, Inc., D/B/A Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
70385	Prorestore Products, Agent Name: Lewis & Harrison, LLC, 122 C Street NW., Suite 505, Washington, DC 20001.
72138	White Cap, Inc., Agent Name: Delta Analytical Corp., 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
73049	Valent Biosciences Corporation, 870 Technology Way, Libertyville, IL 60048–6316.
87538	Coeus Technology, Inc., 5540 West 53rd Street Parkway, Anderson, IN 46013.
89816	Mebrom Corp., Agent Name: PRA Registrations, LLC, 8595 Collier Blvd., Suite 107–51, Naples, FL 34114.
90736	Jiangsu Fengdeng Crop Science Co., Ltd., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th St., CT NW., Gig Harbor, WA 98332.
91411	Kocide, LLC, Agent Name: Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants listed in Table 3 of Unit II have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use termination should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 and Table 2 of Unit II.

A. For Products 706–69, 10324–169, 10324–174, 10324–184, 10324–197, 10324–218, 10807–438 and 33176–24.

The registrant has requested to the Agency via letter to sell existing stocks for an 18-month period for products 706–69, 10324–169, 10324–174, 10324–184, 10324–197, 10324–218, 10807–438 and 33176–24.

Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation, EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year and 6 months, after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

B. For All Other Products Identified in Table 1 and Table 2 of Unit II.

Because the Agency has identified no significant potential risk concerns associated with these pesticide

products, upon cancellation of the products or termination of uses identified in Table 1 and Table 2 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 and Table 2 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 2, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–07138 Filed 4–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0135; FRL–9960–10]

Dinotefuran; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the West Virginia, Virginia, and Pennsylvania Departments of Agriculture to use the insecticide dinotefuran (CAS No. 165252–70–0) to treat pome and stone

fruit orchards to control the brown marmorated stinkbug. The applicants propose a use which is supported by the Interregional Research Project Number 4 (IR-4) program, has been requested in 5 or more previous years, and a petition for tolerance has not been submitted to the Agency. Therefore, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before April 25, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2017-0135, 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:* 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 <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

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

FOR FURTHER INFORMATION CONTACT:

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

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What action is the agency taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. The West Virginia, Virginia, and Pennsylvania Departments of Agriculture have requested the EPA Administrator to issue specific exemptions for the use of dinotefuran on pome and stone fruit to control the brown marmorated stinkbug. Information in accordance with 40 CFR part 166 was submitted as part of the requests. The applicants assert that the

rapid spread of large outbreaks of the brown marmorated stinkbug (BMSB) resulted in an urgent and non-routine pest control situation that is expected to cause significant economic losses without the requested use. The applicants propose no more than two applications at a rate of 0.203 to 0.304 lb. (maximum 0.608 lb.) of dinotefuran per acre, on up to 60,000 acres of pome and stone fruit grown in the requesting states, from April 1 to October 15, 2017. A total of 36,480 lbs. of dinotefuran could be used (maximum acreage at highest rate).

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing FIFRA section 18 at 40 CFR 166.32(a)(7), require publication of a notice of receipt of an application for a specific exemption proposing a use which is supported by the IR-4 program, has been requested in 5 or more previous years, and a petition for tolerance has not yet been submitted to the Agency. The notice provides an opportunity for public comment on the applications. The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemptions requested by the West Virginia, Virginia, and Pennsylvania Departments of Agriculture.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 23, 2017.

Daniel J. Rosenblatt,
Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017-07135 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[9956-74-OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of South Carolina's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 10, 2017 for the State of South Carolina's National Primary Drinking Water Regulations Implementation program, if no timely request for a

public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT:

Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566-1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On March 6, 2017, the South Carolina Department of Health and Environmental Control (SCDHEC) submitted an application titled Compliance Monitoring Data Portal (CMDP) for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed SCDHEC's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve South Carolina's request to

revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

SCDHEC was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of South Carolina's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

- (1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;
- (2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;
- (3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of South Carolina's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017-07140 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2016-0618; FRL-9959-38]

Cancellation Order for Certain Pesticide Registrations and/or Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and/or amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of products listed in Table 1 and 2 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a November 22, 2016 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II. to voluntarily cancel and/or amend to terminate uses of these product registrations. In the November 22, 2016 notice, EPA indicated that it would issue an order implementing the cancellations and/or amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and/or amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The propoxur product cancellations are effective December 31, 2017. The remaining cancellations and/or amendments are effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Brittany Pruitt, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0289; email address: pruitt.brittany@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 environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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 this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0618, 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>.

II. What action is the agency taking?

This notice announces the cancellations and/or amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1—DIMETHOMORPH, METIRAM, PROFENOFOS, PROPOXUR AND SODIUM ACIFLUORFEN PRODUCT CANCELLATIONS

EPA registration No.	Product name
4-433	Bonide Kleen Up Grass and Weed Killer, Ready to Use.
100-598	Profenofos Technical.
100-699	Curacron 8E.
279-3395	CB Invader with Propoxur.
241-383	Acrobat MZ Fungicide.
241-395	Acrobat MZ WDG Fungicide.
241-410	Acrobat 50 WP Fungicide.
241-411	Stature MZ Fungicide.
241-419	Stature DM Fungicide.
3862-135	Drop Dead.
6218-24	Permacide Plus.
7969-105	Polyram 80 DF.
7969-321	Cabrio Plus Fungicide.
11556-33	Sendran Technical.
89459-39	Prentox Prenbay 1.5 BC.
89459-28	Prentox Prenbay 1% Oil.
FL980001	Polyram 80 DF.

TABLE 2—CAPTAN AND PROPOXUR PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

EPA registration No.	Product name	Uses terminated
42750-230	Captan Technical	Turf (golf courses and sod farms), seed beds and greenhouse bench treatment.
42750-231	Captan 80 DF	Dichondra, turf grasses (golf courses, ornamental in non-pastured areas only), grasses (lawn seedbeds), turf (sod farms).
42750-235	Captan 50% WP	Dichondra, turf grasses (ornamentals in non-pastured areas only), grasses (lawn seedbeds).
42750-236	Captan 39.75% FL	Dichondra, turf grasses (ornamental in non-pastured areas only), grasses (lawn seedbeds).
84396-12	Sungro Residual Spray	Indoor aerosol, spray, and liquid formulations; use in food handling establishments and indoor crack and crevice use.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3—REGISTRANTS OF CANCELLED AND/OR AMENDED PRODUCTS

EPA company No.	Company name and address
4	Bonide Products, Inc., 6301 Sutliff Road, Oriskany, NY 13424.
100	Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27419.
241	BASF Corporation, 29 Davis Drive, Research Triangle Park, NC 27709.

TABLE 3—REGISTRANTS OF CANCELLED AND/OR AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
279	FMC Corporation, 1735 Market Street, Philadelphia, PA 19103.
3862	ABC Compounding Company, Inc., P.O. Box 16247, Atlanta, GA 30321.
6218	Summit Chemical Company, 8322 Sharon Drive, Frederick, MD 21704.
7969	BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709.
11556	Bayer Healthcare, LLC, P.O. Box 390, Shawnee Mission, KS 66201.

TABLE 3—REGISTRANTS OF CANCELLED AND/OR AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
42750	Albaugh LLC, P.O. Box 2127, Valdosta, GA 31604-2127.
84396	Sungro Products, LLC, 810 E. 18th Street, Los Angeles, CA 90021.
89459	Central Garden & Pet Company, 1501 E. Woodfield Road, Suite 200, West Schaumburg, IL 60173.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the November 22, 2016 **Federal Register** notice announcing the

Agency's receipt of the requests for voluntary cancellations and/or amendments to terminate uses of products listed in Tables 1 and 2 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and/or amendments to terminate uses of the registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II. are canceled and/or amended to terminate the affected uses. The effective date of the propoxur product cancellations that are subject to this notice is December 31, 2017. The effective date of the remaining cancellations that are subject to this notice is April 10, 2017. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of November 22, 2016 (81 FR 83833) (FRL-9954-80). The comment period closed on December 22, 2016.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provisions for the products subject to this order are as follows:

A. For Propoxur Products 279-3395, 3862-135, 6218-24, 11556-33, 89459-28, 89459-39 Identified in Table 1 of Unit II.

At the request of the registrant FMC Corporation, the effective product

cancellation date for the propoxur products listed in Table 1 of Unit II. is December 31, 2017. The registrants may continue to sell and distribute existing stocks of the propoxur products listed in Table 1 of Unit II. until December 31, 2017. Thereafter, registrants will be prohibited from selling or distributing the propoxur products identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of the affected cancelled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

B. For All Other Products Identified in Table 1 and 2 of Unit II.

For all other voluntary product cancellations noted, the registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II. until April 10, 2018, which is 1 year after publication of this cancellation order in the **Federal Register**. Thereafter, registrants are prohibited from selling or distributing the products identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

In the case of products for which there are requested amendments to terminate uses, once EPA has approved product labels reflecting the requested amendments to terminate uses, the registrant will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, the registrant will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 2 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of the affected cancelled products/ products under the previously approved labeling until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products/ products under the previously approved labeling.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 9, 2017.

Yu-Ting Guilaran,

*Director, Pesticide Re-Evaluation Division,
Office of Pesticide Programs.*

[FR Doc. 2017-07133 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL_9957-03-OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the Commonwealth of Virginia's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective May 10, 2017 for the Commonwealth of Virginia's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT:

Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566-1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow

electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements. Once an authorized program has EPA's approval to accept electronic documents under certain programs, CROMERR § 3.1000(a)(4) requires that the program keep EPA apprised of any changes to laws, policies, or the electronic document receiving systems that have the potential to affect the program's compliance with CROMERR § 3.2000.

On January 27, 2017, the Virginia Department of Health (VDH) submitted an amended application titled Compliance Monitoring Data Portal for revision to its EPA-approved drinking water program under title 40 CFR to allow new electronic reporting. EPA reviewed VDH's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Virginia's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting under 40 CFR part 141 is being published in the **Federal Register**.

VDH was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the Commonwealth of Virginia's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

- (1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;
- (2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and

any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the Commonwealth of Virginia's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017-07145 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0007; FRL-9959-60]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses of pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before May 10, 2017.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the EPA Registration Number of interest as shown in the body of this document 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:* 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>.

FOR FURTHER INFORMATION CONTACT:

Steve Knizner, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305-7090; email address: ADFRNotices@epa.gov, Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305-7090; email address: RDFRNotices@epa.gov. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

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).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through

regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. Registration Applications

EPA has received applications to register new uses of pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

1. *EPA Registration Number:* 55146–97, 55149–99. *Docket ID number:* EPA–HQ–OPP–2016–0754. *Applicant:* Nufarm Americas Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27545. *Active ingredient:* Oxytetracycline Calcium. *Product type:* Bactericide/Fungicide. *Proposed use:* Citrus Crop Group 10–10; citrus, dried pulp. *Contact:* RD.

2. *EPA Registration Number:* 66330–403, 66330–404. *Docket ID number:* EPA–HQ–OPP–2016–0519. *Applicant:* Arysta LifeScience North America LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513. *Active ingredient:* Kasugamycin. *Product type:* Bactericide/Fungicide. *Proposed use:* Stone Fruit, Subgroup 12–12A; walnut. *Contact:* RD.

3. *EPA File Symbol:* 79814–5. *Docket ID number:* EPA–HQ–OPP–2017–0063. *Applicant:* ICA Trinova, Inc., 1 Beavers Street, Suite B, Newnan, GA 30263. *Product name:* FruitGard®. *Active ingredient:* Sodium chlorite at 3.2%. *Product Type:* Antimicrobial. *Proposed Use:* End use Antimicrobial Product for use as a fungicide in post-harvest treatment of tomatoes and cucurbit vegetables. *Contact:* AD.

4. *EPA Registration Numbers:* 85777–1, 66222–184, 352–555, and 352–768. *Docket ID Number:* EPA–HQ–OPP–2016–0516. *Applicants:* DuPont Crop Protection, Stine-Haskell Research Center, P.O. Box 30, Newark, DE 19714–0030 and Makhteshim Agan of North America, Inc., (d/b/a ADAMA), 3120 Highwoods Blvd., Suite 10, Raleigh, NC 27604. *Active ingredient:* Rimsulfuron. *Product Type:* Herbicide. *Proposed Uses:* Citrus fruit group 10–10;

Fescue and ryegrass grown for seed; Low growing berry subgroup 13–07H; Pome fruit group 11–10; Small vine climbing fruit subgroup 13–07F; Stone fruit group 12–12; Tree nut group 14–12; and Tuberous and corm subgroup 1C. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 28, 2017.

Delores Barber,

Director, Information Technology & Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–07146 Filed 4–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[9956–79–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Iowa's request to revise its National Emission Standards for Hazardous Air Pollutants EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective April 10, 2017.

FOR FURTHER INFORMATION CONTACT:

Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of

40 CFR part 3, subpart D provides special procedures for program revisions to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On November 28, 2016, the Iowa Department of Natural Resources (IDNR) submitted an application titled Asbestos Notification System for revision to its EPA-approved program under title 40 CFR to allow new electronic reporting. EPA reviewed IDNR's request to revise its EPA-authorized Part 63—National Emission Standards for Hazardous Air Pollutants program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Iowa's request to revise its Part 63—National Emission Standards for Hazardous Air Pollutants program to allow electronic reporting under 40 CFR parts 61, 63, and 65 is being published in the **Federal Register**.

IDNR was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017–07141 Filed 4–7–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9960–63–OA]

Notification of a Meeting of the Science Advisory Board Economy-Wide Modeling Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Economy-Wide Modeling Panel to discuss its draft responses on charge questions from the EPA's National Center for

Environmental Economics and the Office of Air and Radiation on economic analysis for air regulations at the EPA.

DATES: The public meeting will be held on May 24, 2017, from 8:00 a.m. to 5:00 p.m. (Eastern Time).

ADDRESSES: The meeting will take place at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202. Teleconference lines will also be available for members of the public who are unable to attend the meeting in person.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564-2073 or email at stallworth.holly@epa.gov. The SAB mailing address is U.S. EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information about the SAB, including information concerning the SAB meeting announced in this notice, can be found at the SAB Web page at <http://epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Economy-Wide Modeling Panel will hold a public meeting to further discuss its draft responses on charge questions from EPA's National Center for Environmental Economics and the Office of Air and Radiation on economic analysis for air regulations at the EPA. The Panel will provide advice to the Administrator through the chartered SAB.

This is the third face-to-face meeting. On May 24, 2017, the Economy-Wide Modeling Panel expects to complete its major deliberations on its conclusions and recommendations on economy-wide modeling for EPA's air regulations.

All draft reports developed by SAB panels, committees or workgroups are reviewed and approved by the

Chartered SAB through a quality review process before being finalized and transmitted to the EPA Administrator.

Availability of the meeting materials: An agenda and draft report will be posted on the SAB Web site prior to the May 24, 2017, meeting. To locate meeting materials, go to http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Economywide%20modeling?OpenDocument. For questions concerning EPA's review materials on economy-wide modeling, please contact Dr. Ann Wolverton, EPA National Center for Environmental Economics at wolverton.ann@epa.gov or 202-566-2278.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to the EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the panel and the EPA review documents, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB panel to consider or if it relates to the clarity or accuracy of the technical information.

Oral Statements: In general, individuals or groups requesting an oral presentation will be limited to five minutes per speaker for the face-to-face meeting. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email), at the contact information noted above by May 16, 2017, to be placed on the list of public speakers for the meeting.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by Committee/Panel members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by May 16, 2017. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on

its Web site. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: To request accommodation of a disability, please contact Dr. Stallworth at 202-564-2073 or stallworth.holly@epa.gov. To request accommodation of a disability please contact Dr. Stallworth, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: March 20, 2017.

Khanna Johnston,

Acting Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2017-07132 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0069; FRL-9959-67]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before October 10, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2017-0069, 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:* 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>.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0367; email address: Green.Christopher@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 environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. 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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one

complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain pesticide products. The affected products and the registrants making the requests are identified in Tables 1–2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order in the **Federal Register** canceling the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredient
42750-78	42750	Picloram Acid Technical	Picloram.
42750-183	42750	Picloram Acid Technical	Picloram.
66171-1	66171	Advantage 256	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
66171-2	66171	Advantage 128	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
OR-990007	62719	Kerb 50W Herbicide in WSP	Propyzamide.
WA-060002	62719	Kerb 50-W	Propyzamide.
WA-960004	279	Fyfanon ULV AG	Malathion (NO INERT USE).

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of

this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration

numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA company No.	Company name and address
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
42750	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604-2127.
62719	Dow AgroSciences, LLC, 9330 Zionsville Rd. 308/2E, Indianapolis, IN 46268-1054.
66171	Preserve International, 944 Nandino Blvd., Lexington, KY 40511.

III. What is the Agency’s authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the

request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use

termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants listed in Table 2 of Unit II have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. If the requests for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit II.

For voluntary product cancellations, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 2, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017-07136 Filed 4-7-17; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 2017.

A. *Federal Reserve Bank of Atlanta* (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to Applications.Comments@atl.frb.org:

1. *FNBMD Bancshares, Inc.*, to become a bank holding company by acquiring 100 percent of the outstanding shares of The First National Bank of Mount Dora, both of Mount Dora, Florida.

2. *IBERIABANK Corporation*, Lafayette, Louisiana; to acquire 100 percent of the outstanding voting shares of Sabadell United Bank, N.A., Miami, Florida.

Board of Governors of the Federal Reserve System, April 5, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017-07110 Filed 4-7-17; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 24, 2017.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Glenn Wiese, Mary Ellen Wiese, and Jerry Wiese*, all of Lindsay, Nebraska; as members of the Wiese Family Group, to retain voting shares of Lindsay State Company, parent of Bank of Lindsay, both of Lindsay, Nebraska.

Board of Governors of the Federal Reserve System, April 5, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017-07111 Filed 4-7-17; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[File No. 161 0093; Docket No. C-4610]

China National Chemical Corporation, a Corporation; ADAMA Agricultural Solutions Ltd., a Corporation; and Makhteshim Agan of North America, Inc., Doing Business as ADAMA, a Corporation; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of

federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 4, 2017.

ADDRESSES: Interested parties may file a comment at <https://ftcpublic.commentworks.com/ftc/chemchinaconsent> online or on paper,

by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “In the Matter of China National Chemical Corporation and Syngenta AG, File No. 161 0093” on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/chemchinaconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write “In the Matter of China National Chemical Corporation and Syngenta AG, File No. 161 0093” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David Morris (202-326-3156), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 4, 2017), on the World Wide Web, at <http://www.ftc.gov/0s/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 4, 2017. Write “In the Matter

of China National Chemical Corporation and Syngenta AG. File No. 161 0093” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <https://www.ftc.gov/policy/public-comments>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/chemchinaconsent> by following the instructions on the web-based form. If this Notice appears at <http://>

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

www.regulations.gov/#/home, you also may file a comment through that Web site.

If you file your comment on paper, write “In the Matter of China National Chemical Corporation and Syngenta AG, File No. 161 0093” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 4, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (“Commission”) has accepted from China National Chemical Corporation (“ChemChina”), subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”). The Consent Agreement, which contains a proposed Decision and Order (“Order”) and Order to Maintain Assets, is designed to remedy the anticompetitive effects resulting from ChemChina’s proposed acquisition of Syngenta AG (“Syngenta”).

Pursuant to an agreement signed on February 2, 2016 (the “Agreement”), ChemChina, through an indirect subsidiary, will submit a public tender offer for all publicly registered shares and American Depository Shares of Syngenta at an offer price of \$465 per share, for total consideration of up to \$43 billion in cash (the “Acquisition”). The proposed Acquisition would result in highly concentrated markets and raise significant competitive concerns in the markets for the herbicide paraquat, the insecticide abamectin, and the fungicide chlorothalonil in the United

States. The Commission's Complaint alleges that the proposed Acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended 15 U.S.C. 45, by lessening competition in the markets for formulated crop protection products based on paraquat, abamectin, and chlorothalonil in the United States.

The Consent Agreement remedies the alleged violation by replacing the competition in the three relevant markets that would be lost as a result of the proposed Acquisition. Under the terms of the Consent Agreement, ChemChina subsidiary ADAMA will divest its paraquat, abamectin, and chlorothalonil crop protection businesses in the United States to American Vanguard Corporation and its affiliate Amvac Chemical Corporation (collectively "AMVAC").

The Consent Agreement and proposed Order have been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement and the comments received, and decide whether it should withdraw, modify, or make final the Consent Agreement and proposed Order.

II. The Parties

ChemChina is a Chinese state-owned entity and is a diversified chemical company headquartered in Haidian District Beijing, China. ChemChina owns an Israel-based crop protection company, ADAMA. This wholly-owned subsidiary produces and/or sells formulated crop protection products based on paraquat, abamectin, and chlorothalonil.

Headquartered in Basel, Switzerland, Syngenta is a large research-based global agriculture company that manufactures and sells numerous crop protection products including paraquat, abamectin, and chlorothalonil.

III. Crop Protection Formulations

The relevant lines of commerce in which to analyze the effects of the proposed Acquisition are crop protection formulations based on the active ingredients paraquat, abamectin, and chlorothalonil. Crop protection formulations are used to protect crops from pests. These formulations are based on key active ingredients, which are diluted from a concentrated technical grade. Crop protection chemicals fall into three broad categories: (1) Herbicides, which control for weeds and other vegetation; (2)

fungicides, which control fungus; and (3) insecticides, which control insects. Of the relevant lines of commerce, paraquat is a herbicide, abamectin is an insecticide, and chlorothalonil is a fungicide.

Paraquat is a non-selective "burndown" herbicide, which means it does not discriminate between weeds and crops. It is used to clear fields prior to the growing season. The use of paraquat has increased in recent years due to the resistance issues faced by glyphosate caused by its overuse. Other paraquat alternatives that do not have glyphosate's resistance issues are significantly more expensive than paraquat.

Abamectin is an insecticide used to kill mites, psyllid, and leafminers. It is used primarily in citrus and tree nut crops. Other alternative miticides are either significantly more expensive than abamectin because they are still on patent, or are less effective than abamectin. Due to resistance issues faced by insecticides, it is typical for a grower to spray five to six different types of miticides per season. Abamectin generally appears in any insecticide rotation because it is inexpensive and highly effective.

Chlorothalonil is a broad spectrum fungicide used primarily to protect peanuts and potatoes. Chlorothalonil is particularly effective because it operates with four modes of action and is critical to growers for resistance management. Syngenta recommends that growers rotate or mix chlorothalonil with systemic fungicides to prevent or slow development of resistance to single-site mode of action fungicides.

The relevant geographic area in which to analyze the effects of the Acquisition on the formulated crop protection markets is the United States. The Environmental Protection Agency requires that manufacturers register both the technical active ingredient and the formulated products for sales in the United States under the Federal Insecticide, Fungicide, and Rodenticide Act. This registration requirement limits market access to a set of products that meet U.S. regulatory requirements.

Each of the products at issue were either developed or acquired by a Syngenta predecessor company, meaning that Syngenta offers the branded version of the product and has significant market shares in each. ADAMA is either the first or second largest generic supplier for each of these products. For paraquat, ADAMA is currently the second largest supplier behind Syngenta and another generic supplier. Post-Acquisition, the combined share of the two firms would

be over 60%. ADAMA is the generic market leader for abamectin and has been for some time. Post-Acquisition, the combined share of the two firms would be close to 80%. Finally, ADAMA is the second largest generic supplier of chlorothalonil and post-Acquisition the combined share of the two firms would be over 40%. There are a number of other generic providers of crop protection products generally, as well as other generic providers of paraquat, abamectin, and chlorothalonil. However, they have been largely unable to gain sufficient share to rival the scale and market position ADAMA holds in the markets for these three products.

The proposed Acquisition removes significant competition between Syngenta and ADAMA. Though branded and generic companies employ different business models, the available evidence shows meaningful competition between the merging parties. Syngenta, for example, has lowered the price of its crop protection products in response to competitive pressure from ADAMA.

Entry will not be sufficient to deter or counteract the anticompetitive effects of the proposed Acquisition. While generic entry may be likely and occur in a timely manner, it is unlikely to be sufficient to replace the competitive significance and scale of ADAMA. Typically, new entrants forecast and ultimately achieve minimal market penetration while ADAMA, in contrast, has successfully maintained significantly higher market shares for an extended period of time. ADAMA has been a more robust competitor for the products at issue through economies of scale and more favorable supply agreements.

IV. The Consent Agreement

The Consent Agreement eliminates the competitive concerns raised by ChemChina's proposed acquisition of Syngenta by requiring ChemChina to sell ADAMA's U.S. paraquat, abamectin, and chlorothalonil crop protection businesses. The Consent Agreement requires ChemChina to sell the relevant business assets to AMVAC, or another acquirer approved by the Commission through a purchase agreement approved by the Commission.

AMVAC is well positioned to replace the competition that will be eliminated as a result of the proposed Acquisition. It has the industry experience, reputation, and resources to replace ADAMA as an effective competitor in the U.S. markets for formulated crop protection products based on paraquat, abamectin, and chlorothalonil. The company is headquartered in Newport Beach, California, and has four separate

manufacturing facilities within the U.S. AMVAC is an experienced player in the agrochemical segments in which ADAMA and Syngenta operate, and sells to the same customer base. AMVAC currently manufactures and formulates a large number of crop protection chemicals including herbicides, insecticides, and fungicides. The products to be divested will complement its current product lines. Finally, due to its wide spectrum of crop protection products, AMVAC is well placed to develop, register, and market new combination products, further improving scale in both crop protection and turf and ornamental applications.

Pursuant to the Consent Agreement, AMVAC (or another approved acquirer) would acquire all of the assets and other such rights necessary to be an effective competitor for paraquat-, abamectin-, and chlorothalonil-based crop protection formulations. This will include the U.S. product registrations and registration data packages for both the formulated products and the technical active ingredients, all intellectual property rights associated with the products including confidential statements of formulation, and inventories. The divestiture also will include a cost-competitive transitional supply agreement for the supply of paraquat with Sanonda, ADAMA's low cost paraquat supplier, which is majority-owned by ChemChina, and a transitional services agreement with ADAMA. In addition, the Consent Agreement requires the removal of crop protection products containing any one of the three active ingredients from Syngenta's loyalty program for three years. This nurturing provision is to help ensure that AMVAC (or any approved acquirer) can step into the shoes of ADAMA and ultimately retain its competitiveness and scale.

The purpose of this analysis is to facilitate public comment on the Consent Agreement. It is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017-07069 Filed 4-7-17; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

[File No. 151 0159]

American Guild of Organists; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 2, 2017.

ADDRESSES: Interested parties may file a comment at <https://ftcpublic.commentworks.com/ftc/americanguildconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “In the Matter of American Guild of Organists; File No. 151-0159” on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/americanguildconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write “In the Matter of American Guild of Organists; File No. 151-0159” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:

Karen A. Mills (202-326-2052), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the

full text of the consent agreement package can be obtained from the FTC Home Page (for March 31, 2017), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 2, 2017. Write “In the Matter of American Guild of Organists; File No. 151-0159” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <https://www.ftc.gov/policy/public-comments>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/americanguildconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that Web site.

If you file your comment on paper, write "In the Matter of American Guild of Organists; File No. 151-0159" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 2, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from the American Guild of Organists (hereinafter "the AGO"). The Commission's complaint ("Complaint") alleges that the AGO, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by adopting and maintaining provisions in its Code of Ethics that restrain AGO members from freely seeking or accepting work, and by recommending that its members use standard fees and approaches to determine compensation for members' services. This likely raised prices for consumers seeking to employ organists

for special occasions, as well as the organizations that employed organists.

The proposed Consent Agreement requires the AGO to cease and desist from restraining competition among its members, including by restricting members' freedom to seek or accept work, or by restraining price competition among members.

The Commission anticipates that accepting the proposed order, subject to final approval, contained in the Consent Agreement, will resolve the competitive issues described in the Complaint. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order ("the Proposed Order").

This Analysis to Aid Public Comment seeks to invite and facilitate public comment. It does not constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by the AGO that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent and the Provisions at Issue

The AGO is a non-profit trade association. The AGO has approximately 15,000 members organized in more than 300 chapters throughout the United States and abroad. The AGO membership includes organists and choral conductors. The AGO's members provide services as organists and choral conductors for a fee.

The AGO maintains a Code of Ethics applicable to the commercial activities of its members. The Code of Ethics states in part that,

"Members shall not seek or appear to be seeking employment for themselves, a student, or a colleague, in a position held by someone else . . ."

"Members shall obtain the approval of the incumbent musician before accepting an engagement for a wedding, funeral, or other

service requested by a third party. In such cases, the incumbent should receive his/her customary fee, and the third party is expected to provide it. It is the responsibility of the guest member to inform the third party of this rule."

The AGO adopted standardized documents relating to compensation, including fee schedules, a salary guide, worksheets for calculating work performed, and model contract provisions for members to (hereinafter "compensation guidelines"). The fee schedules cover the fees to be charged for such work as rehearsals, performing as a substitute, weddings, funerals, rehearsals, contracting additional musicians, mileage reimbursement, and cancelled services, and include a formula for its chapters and members to use for geographic adjustment of the compensation baselines.

B. The Anticompetitive Conduct

The FTC investigated the provisions of the AGO's Code of Ethics and compensation guidelines that allegedly restrained competition and harmed consumers, and which had generated consumer and organist complaints. The Complaint alleges that the AGO violated Section 5 of the Federal Trade Commission Act by agreeing to restrain competition among organists and choral conductors. The AGO's adoption and enforcement of the Code of Ethics and compensation guidelines represent agreements among competitors not to compete. The Code of Ethics limits the freedom of organists and choral directors to seek or accept positions and engagements. The compensation guidelines limit price competition and impose additional costs on consumers. For consumers who wanted to employ an organist of their choice for a wedding, funeral, or other occasion, the AGO's Code of Ethics included a provision that had the effect of requiring some consumers to pay for the services of two organists—the organist they chose and hired, and the incumbent organist of the venue location even though only the first organist performed. The provisions and enforcement of the AGO's Code of Ethics, as well as its compensation guidelines, likely increased prices for consumers and those that employed organists as choral directors or in permanent organist positions.

The AGO adopted the Code of Ethics, educates members about the Code of Ethics, exhorts its members to follow the Code of Ethics, and enforces the Code of Ethics. The AGO may expel a member that fails to abide by the Code of Ethics.

The AGO instructs its chapters to use AGO's compensation schedules and formulas to develop regionally applicable compensation schedules. AGO chapters used the AGO compensation schedules and formulas to develop and publicize regionally applicable compensation schedules. AGO members used the compensation schedules to determine what to charge for their services.

The purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of the AGO has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among organists and choral directors.

II. The Proposed Order

The Proposed Order has the following substantive provisions.

Paragraph II of the Proposed Order requires the AGO to cease and desist from restraining or declaring unethical, interfering with, or advising against price competition by members, and from creating or recommending lists, guidelines, or model contract provisions for its members to use to determine fees or compensation. It also requires the AGO to cease and desist from restricting members freedom to seek or accept positions or engagements. Paragraph II also prohibits the AGO from accepting as a chapter or maintaining a relationship with any chapter that the AGO knows engages in conduct prohibited by the Proposed Order.

Paragraph III of the Proposed Order requires the AGO to remove from its organization documents and Web site any statement inconsistent with the Proposed Order, including the challenged Code of Ethics restrictions. The AGO must publicize to its members, new members, leaders, employees, and the public the changes the AGO must make to the Code of Ethics, and a statement describing the Consent Agreement. Paragraph III also requires the AGO to terminate recognition of chapters that fail to certify Compliance with the Proposed Order, and chapters that the AGO learns have engaged in any prohibited practice, if such chapters do not commit to ending such practices.

Paragraph IV of the Proposed Order requires the AGO to design, maintain, and operate an antitrust compliance program. Paragraphs V–VII contain standard reporting, notification, and cooperation requirements.

The Proposed Order will expire in 20 years; the Proposed Order limits certain provisions to a period of five years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–07070 Filed 4–7–17; 8:45 am]

BILLING CODE 6750–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Financial Management and Assurance; Government Auditing Standards

AGENCY: U.S. Government Accountability Office.

ACTION: Notice of document availability.

SUMMARY: On April 5, 2017, the U.S. Government Accountability Office (GAO) issued an exposure draft of proposed revisions to Government Auditing Standards (GAGAS), also known as the Yellow Book. To help ensure that the standards continue to meet the needs of the government community and the public it serves, the Comptroller General of the United States appointed the Advisory Council on Government Auditing Standards to review GAO's proposed revisions of the standards and consider other necessary changes. The advisory council includes experts from all levels of government, the private sector, and academia. This exposure draft includes the advisory council's input regarding the proposed changes. We are requesting public comments on the proposed revisions in the 2017 exposure draft.

GAO first issued the standards in 1972. The proposed changes in the exposure draft update GAGAS to reflect major developments in the accountability and audit professions and emphasize specific considerations applicable to the government environment.

DATES: Comments will be accepted through July 6, 2017.

ADDRESSES: A copy of the exposure draft (GAO–17–313SP) can be obtained on the GAO Internet page at <http://www.gao.gov/yellowbook>.

FOR FURTHER INFORMATION CONTACT: The GAO Standards Team at (202) 512–9535.

SUPPLEMENTARY INFORMATION: To ensure that your comments are considered by GAO and the advisory council in their deliberations, please submit them by July 6, 2017. Please send your comments electronically to YellowBookComments@gao.gov.

Authority: Public Law 67–13, 42 Stat. 20 (June 10, 1921).

James R. Dalkin,

Director, Financial Management and Assurance, U.S. Government Accountability Office.

[FR Doc. 2017–07117 Filed 4–7–17; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting Notice; Advisory Council for the Elimination of Tuberculosis (ACET)

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

TIME AND DATE: 10:00 a.m.–3:30 p.m., EDT, April 11, 2017.

PLACE: Web conference.

Toll free number 1–877–927–1433, Participant Code: 12016435.

To join the meeting: <https://adobeconnect.cdc.gov/r5p8l2tytpq/>.

STATUS: Open to the public, limited only by the number of ports available for the web conference. The meeting accommodates 100 ports. Persons who desire to make an oral statement, may request it at the time of the public comment period on April 11, 2017 at 3:20 p.m. EDT). Public participation and ability to comment will be limited to space and time as it permits.

PURPOSE: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis (TB). Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

MATTERS FOR DISCUSSION: Agenda items include the following topics: (1) CDC's Global TB Work; (2) Identifying and Eliminating Stigmatizing Language in TB Communications; (3) Discussion and Approval of the Essential Components of Tuberculosis Prevention Control and Elimination Program Document; (4) Updates from Workgroups; and (5) other tuberculosis-related issues.

Agenda items are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the meeting due to an unavoidable circumstance, the administrative change and procedural processing delays. In the interest of promoting openness and transparency, we are publishing a late notice in the **Federal Register** to inform the public.

CONTACT PERSON FOR MORE INFORMATION: Margie Scott-Cseh, Centers for Disease Control and Prevention, 1600 Clifton Road NE., M/S E-07, Atlanta, Georgia 30333, telephone (404) 639-8317; Email: zkr7@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017-07284 Filed 4-7-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meetings of the National Preparedness and Response Science Board and the National Advisory Committee on Children and Disasters

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Preparedness and Response Science Board (NPRSB) will hold a public meeting on April 12, 2017, and a joint public meeting with the National Advisory Committee on Children and Disasters (NACCD) on April 13, 2017. Notice of publication for the April 12-13, 2017 meeting is less than 15 calendar days prior to the meeting, as exceptional circumstances exist. Pursuant to the Federal Advisory Committee Management Regulations, the notice for this meeting is given less than 15 calendar days prior to the meeting due to exceptional circumstance. It is imperative that the National Preparedness and Response Science Board (NPRSB) and the National Advisory Committee (NACCD) hold this April 12-13, 2017 meeting to accommodate the scheduling priorities

of key participants. Given HHS's need for the NPRSB and NACCD's ongoing advice, and the scheduling difficulties of selecting alternative dates, the agency deems it important for the advisory committees to meet on April 12-13, 2017, despite the late notice.

DATES: The NPRSB will hold a public meeting on April 12, 2017 from 9:00 a.m. to 11:00 a.m. EST. The NPRSB and NACCD will hold a joint public meeting on April 13, 2017, from 9:00 p.m. to 4:00 p.m. EST. The agenda is subject to change as priorities dictate.

ADDRESSES: Individuals who wish to participate should send an email under "Contact Us" to <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd> with "NACCD Registration" or "NPRSB Registration" in the subject line. The meeting will occur in person and via teleconference. To attend in-person or via teleconference, please visit the NPRSB and NACCD Web sites at <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd> for further instructions.

FOR FURTHER INFORMATION CONTACT: CDR Evelyn Seel, MPH at (202) 205-7960. Please submit an inquiry via the NPRSB Contact Form or the NACCD Contact Form located at <http://www.phe.gov/NACCDComments> or <http://www.phe.gov/NBSBComments>.

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the PHS Act (42 U.S.C. 247d-7f) and section 222 of the PHS Act (42 U.S.C. 217a), HHS established the NPRSB. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NPRSB may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response. Pursuant to the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and section 2811A of the Public Health Service (PHS) Act (42 U.S.C. 300hh-10a), as added by section 103 of the Pandemic and All Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113-5), the HHS Secretary, in consultation with the Secretary of the U.S. Department of Homeland Security, established the NACCD. The purpose of the NACCD is to provide advice and consultation to the HHS Secretary with respect to the medical and public health needs of children in relation to disasters.

Background: The NPRSB public meeting on April 12, 2017, will be dedicated to the swearing-in of one new voting member and the re-appointment of five existing members. The NPRSB and NACCD will hold a joint public meeting and ASPR Day on April 13, 2017, with presentations on ASPR priorities, the National Health Security Strategy, and stakeholder updates. The Designated Federal Official of the NPRSB and the NACCD may add subsequent agenda topics as priorities dictate. Any additional agenda topics will be available on the April 12 and 13, 2017 meeting Web pages of the NPRSB and NACCD, which are available at <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd>.

Availability of Materials: The joint meeting agenda and materials are posted prior to the meeting on April 12 and 13, 2017 meeting Web pages at <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd>.

Procedures for Providing Public Input: Members of the public attend in-person or by teleconference via a toll-free call-in phone number, which is available on the NPRSB or NACCD Web sites at <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd>. All members of the public are encouraged to provide written comment to the NPRSB and NACCD. Submit all written comments prior to April 12, 2017, to their Web sites, under "Contact Us," at <http://www.phe.gov/nprsb> and <http://www.phe.gov/naccd> with "NACCD Public Comment" or "NPRSB Public Comment" as the subject line. The NACCD and NPRSB receive any public comments by close of business one week prior to the teleconference.

Dated: April 4, 2017.

George W. Korch, Jr.,

Acting Assistant Secretary for Preparedness and Response.

[FR Doc. 2017-07051 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: 0990-0419-30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the

Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0990-0419, scheduled to expire on June 30, 2017. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before May 10, 2017.

ADDRESSES: Submit your comments to OIRA_submission@omb.eop.gov or via facsimile to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, Information.CollectionClearance@hhs.gov or (202) 795-7714.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting

information, please include the OMB control number 0990-0419 and document identifier 0990-0419-30D for reference.

Information Collection Request Title: Acquisition Regulation Clause Patent Rights and Rights and Data.

Abstract: The Department of Health and Human Services; Office of the Assistant Secretary for Financial Resources and Office of Grants and Acquisition Policy and Accountability, Division of Acquisition. is requesting an approval by OMB for an extension of a previously approved information collection request, 0990-0419—Acquisition Regulation Clause Patent rights and Rights in Data. HHS found that systematically, over a period of several years, when Determination of Exceptional Circumstances (DEC) were executed, additional legal protection for the patent and data rights of third parties beyond those covered by FAR 27.306 were necessary A DEC is executed consistent with the policy and objectives of the Bayh-Dole Act, 35

U.S.C. 200, *et. seq.*, to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations including universities; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions; and in the case of fulfilling the mission of the U.S. Department of Health and Human Services, to ultimately to benefit the public health.

Likely Respondents: Administrative, technical, legal and management personnel.

The total annual burden hours estimated for this ICR are summarized in the table below.

Information collection	Type of respondent and hours for each	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden hours
(a)	Technical (4), Legal (2), Management (2)	63	1	8	504
(b)	Technical (8), Legal (2), Management (2)	63	1	12	756
(c)	Technical (8), Legal (3), Management (1)	63	3	12 (36)	2268
(d)	Technical (8), Legal (4), Management (2)	63	3	14 (42)	2646
(e)	Technical (6), Legal (2), Management (2)	63	1	10	630
(f)	Technical (4), Legal (2), Management (2)	63	1	8	504
(g)	Administrative (8)	63	3	8 (24)	1512
(h)	Administrative (2), Management (1)	63	3	3 (9)	567
(i)	Technical (4), Legal (2), Management (2)	63	3	8 (24)	1512
Total .....	.....	63	19	83 (173)	10,899

Terry S. Clark,

Asst Information Collection Clearance Officer.

[FR Doc. 2017-07143 Filed 4-7-17; 8:45 am]

BILLING CODE 4150-24-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Advisory Committee on Children and Disasters

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Advisory Committee on Children and Disasters (NACCD) will

hold a public teleconference on May 5, 2017.

DATES: The NACCD meets May 5, 2017, from 3:00 p.m. to 4:00 p.m. EST.

ADDRESSES: We encourage members of the public to attend the teleconference. To register, send an email under the “Contact Us” link on <https://www.phe.gov/naccd> with “NACCD Registration” in the subject line.

FOR FURTHER INFORMATION CONTACT: CDR Evelyn Seel, MPH at (202) 205-7960. Visit the NACCD Web site located at <https://www.phe.gov/naccd>. Please submit your comments on the NACCD Contact Form located at <https://www.phe.gov/NACCDComments>.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), and section 2811A of the Public Health Service Act (42 U.S.C. 300hh-10a), as added by section 103 of

the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113-5), the HHS Secretary, in consultation with the Secretary of the U.S. Department of Homeland Security, established the NACCD. The purpose of the NACCD is to provide advice and consultation to the HHS Secretary with respect to the medical and public health needs of children in relation to disasters.

Background: The NACCD public teleconference on May 5, 2017, is dedicated to the deliberation and vote on two task letters from the Assistant Secretary for Preparedness and Response (ASPR). The first task letter invites the NACCD to review the role of the ASPR in future disaster preparedness and response activities that specifically affect the well-being of children. The second task letter requests the NACCD to assess progress and remaining gaps in pediatric training

needs of professionals caring for children in disasters since the 2011 National Center for Disaster Medicine and Public Health Conference on this topic. We will post modifications to the agenda on the NACCD May 5, 2017 meeting Web page, which is located at <https://www.phe.gov/naccd>.

Availability of Materials: We will post all meeting materials prior to the meeting on the NACCD May 5, 2017 meeting Web page located at <https://www.phe.gov/naccd>.

Procedures for Providing Public Input: Members of the public may attend the teleconference using a toll-free call-in phone number available on the NACCD Web site at <https://www.phe.gov/naccd>. We encourage members of the public to provide written comments that are relevant to the NACCD teleconference prior to May 5, 2017. Send written comments by email via the "Contact Us" link on <https://www.phe.gov/naccd> with "NACCD Public Comment" in the subject line. The NACCD will respond to comments received by close-of-business April 28, 2017, during the meeting.

Dated: April 4, 2017.

George W. Korch Jr.,

Acting Assistant Secretary for Preparedness and Response.

[FR Doc. 2017-07052 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT:

Licensing information and copies of the patent applications listed below may be obtained by communicating with the indicated licensing contact Peter Soukas at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville,

MD 20852; tel. 301-496-2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION:

Technology description follows.

A Full-Length Infectious cDNA Clone of Zika Virus From the 2015 Epidemic in Brazil as a Genetic Platform for Studies of Virus-Host Interactions and Vaccine Development

Description of Technology: An arthropod-borne virus, Zika virus (ZIKV), has recently emerged as a major human pathogen. Associated with complications during perinatal development and Guillain-Barré syndrome in adults, ZIKV raises new challenges for understanding the molecular determinants of flavivirus pathogenesis. This underscores the necessity for the development of a reverse genetic system based on an epidemic ZIKV strain. This technology relates to the generation and characterization in cell cultures of an infectious cDNA clone of ZIKV isolated from the 2015 epidemic in Brazil. The cDNA-derived ZIKV replicated efficiently in a variety of cell lines, including those of both neuronal and placental origin. It was observed that the growth of cDNA-derived virus was attenuated compared to the growth of the parental isolate in most cell lines, which correlates with substantial differences in sequence heterogeneity between these viruses that were determined by deep-sequencing analysis. Moreover, these results indicate that caution should be exercised when interpreting the results of reverse-genetics experiments in attempts to accurately predict the biology of natural viruses. Finally, a Vero cell-adapted cDNA clone of ZIKV was generated that can be used as a convenient platform for studies aimed at the development of ZIKV vaccines (live attenuated and inactivated) and therapeutics.

This technology is available for licensing nonexclusively in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

This technology is further described in Tsetsarkin et al., "A Full-Length Infectious cDNA Clone of Zika Virus from the 2015 Epidemic in Brazil as a Genetic Platform for Studies of Virus-Host Interactions and Vaccine Development," *mBio*. 2016 Jul-Aug; 7(4): e01114-16. Published online 2016 Aug 23. doi: 10.1128/mBio.01114-16.

Potential Commercial Applications:

- Diagnostics
- Vaccines
- Development of therapeutics

Competitive Advantages:

- Use in development of flavivirus vaccines
- Virus growth in various cell lines
- Developing and developed world research tool

Development Stage:

- Research materials

Inventors: Alexander Pletnev (NIAID), Konstantin Tsetsarkin (NIAID).

Intellectual Property: HHS Reference No. E-114-2017/0.

Licensing Contact: Peter Soukas, J.D., 301-594-8730; peter.soukas@nih.gov.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize vaccine(s) or diagnostics for prophylaxis against flavivirus infections. For collaboration opportunities, please contact Peter Soukas, J.D., 301-594-8730; peter.soukas@nih.gov.

Dated: March 23, 2017.

Suzanne Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2017-07057 Filed 4-7-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT:

Licensing information and copies of the U.S. patent applications listed below may be obtained by communicating with the indicated licensing contact James M. Robinson at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and

Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301-496-2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION:
Technology descriptions follows.

Compositions and Methods for Detecting Loa Loa

Description of Technology: *Loa loa* is a filarial nematode estimated to infect 3–13 million people in Central and Western Africa. In parts of Africa, mass administration of ivermectin is common for onchocerciasis and lymphatic filariasis control. However, some individuals infected with *Loa loa* microfilariae in high densities are known to experience post-ivermectin severe adverse events, such as encephalopathy, coma, or even death. Therefore, diagnostic tools that can accurately identify and differentiate *Loa loa* microfilariae from other filarial infections are needed. Microscopic evaluation of blood samples is the only current diagnostic method used to detect *Loa loa* microfilaremia in endemic areas, and is impractical for widespread screening. Molecular based assays are useful and are quantitative, but require the use of sophisticated instrumentation.

The inventors analyzed samples from *Loa loa* infected patients and uninfected controls, and have identified *Loa loa* microfilaria-specific antigens. The pending application claims a variety of means of detecting these antigens.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Diagnostics

Competitive Advantages:

- Highly specific to *Loa loa* microfilariae
- Highly sensitive
- Both diagnostic and quantitative
- Works with blood, urine, or saliva sample

Development Stage:

- Pre-Clinical

Inventors: Thomas B. Nutman, NIAID, NIH; Sasisekhar Bennuru, NIAID, NIH; and Papa Makhtar Drame, NIAID, NIH.

Publications: Drame, Papa, et al. 2016. Identification and Validation of *Loa loa* Microfilaria-Specific Biomarkers: A Rational Design Approach Using Proteomics and Novel Immunoassays. *mBio*, vol. 7 no. 1 e02132–15.

Intellectual Property: HHS Reference No. E-140-2015/0—US Provisional

Patent Application No. 62/153,654 filed April 28, 2015; PCT Patent Application No. PCT/US2016/029673 filed April 28, 2016.

Licensing Contact: James M. Robinson, 301-761-7542; James.Robinson4@nih.gov.

Collaborative Research Opportunity: The Technology Transfer and Intellectual Property Office (TTIPO) is seeking parties interested in collaborative research to further develop, evaluate or commercialize a diagnostic means for detecting *Loa loa* microfilaria-specific antigens. For collaboration opportunities, please contact James M. Robinson, 301-761-7542; James.Robinson4@nih.gov.

Dated: March 28, 2017.

Suzanne Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2017-07058 Filed 4-7-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102-3.65(a), notice is hereby given that the Charter for the Center for Scientific Review Advisory Council (CSRAC) was renewed for an additional two-year period on March 31, 2017.

It is determined that the CSRAC is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Code 4875), Telephone (301) 496-2123, or spaethj@od.nih.gov.

Dated: April 4, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-07054 Filed 4-7-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: June 22–23, 2017.

Time: June 22, 2017, 1:00 p.m. to 5:00 p.m.

Agenda: Update on NIH sleep disorders research programs and initiatives, updates on sleep related activities from selected Federal Agency partners, and discussion of the NIH Sleep Disorders Research Plan.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9100/9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Time: June 23, 2017, 8:00 a.m. to 3:00 p.m.

Agenda: Discussion and updates on the NIH Sleep Disorders Research Plan, and potential directions for inter-agency coordination activities.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9100/9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Michael J. Twery, Ph.D., Director, National Center on Sleep Disorders Research, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10170, Bethesda, MD 20892-7952, 301-435-0199, twerym@nhlbi.nih.gov.

Information is also available on the Institute's/Center's home page: <https://www.nhlbi.nih.gov/about/committees/sdrab/>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 4, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-07056 Filed 4-7-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel NIH Loan Repayment Program 2017.

Date: April 28, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate loan Repayment Review.

Place: NIEHS/National Institutes of Health, Keystone Building, Room 3118, 500 Davis Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Contact Person: RoseAnne M. McGee, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC-30, Research Triangle Park, NC 27709, (919) 541-0752, mcgee1@niehs.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: April 4, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-07055 Filed 4-7-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2017-0014]

Notice of Request for Revision to and Extension of a Currently Approved Information Collection for the Chemical Facility Anti-Terrorism Standards

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-Day notice and request for comments; revision of Information Collection Request: 1670-0014.

Authority: 6 U.S.C. 621-629.

SUMMARY: The Department of Homeland Security (DHS or the Department), National Protection and Programs Directorate (NPPD), Office of Infrastructure Protection (IP), Infrastructure Security Compliance Division (ISCD), will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). DHS proposes to renew and revise this information collection to update the burden for some of the instruments for this collection and also proposes the addition of a new instrument to this collection.

DATES: Comments are encouraged and will be accepted until June 9, 2017. This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit comments on the proposed revision to, and extension of, this approved information collection through the Federal eRulemaking Portal at <http://www.regulations.gov>. All submissions received must include the words “Department of Homeland Security” and the docket number DHS-2017-0014. Except as provided below, comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

Comments that include trade secrets, confidential commercial or financial information, Chemical-terrorism Vulnerability Information,¹ Sensitive Security Information (SSI),² or Protected Critical Infrastructure Information

¹ For more information about CVI see 6 CFR 27.400 and the CVI Procedural Manual at http://www.dhs.gov/xlibrary/assets/chemsec_cvi_proceduresmanual.pdf.

² For more information about SSI see 49 CFR part 1520 and the SSI Program Web page at <http://www.tsa.gov>.

(PCII)³ should not be submitted to the public regulatory docket. Please submit such comments separately from other comments in response to this notice. Comments containing trade secrets, confidential commercial or financial information, CVI, SSI, or PCII should be appropriately marked and packaged in accordance with applicable requirements and submitted by mail to the DHS/NPPD/IP/ISCD Chemical Facility Anti-Terrorism Standards (CFATS) Program Manager at the Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0610, Arlington, VA 20528-0610.

FOR FURTHER INFORMATION CONTACT: Questions and requests for additional information may be directed to the CFATS Program Manager via email at cfats@dhs.gov or telephone at (866) 323-2957.

SUPPLEMENTARY INFORMATION: Section 550 of the Homeland Security Appropriations Act of 2007, Public Law 109-295 (2006), provided the Department with the authority to regulate the security of high-risk chemical facilities. On April 9, 2007, the Department issued an Interim Final Rule (IFR), implementing this statutory mandate at 72 FR 17688. In December of 2014, the President signed into law the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (also known as the CFATS Act of 2014), Public Law 113-254, which authorized CFATS program in the Homeland Security Act of 2002, as amended, Public Law 107-296.⁴

The CFATS regulation governs the security at covered chemical facilities that have been determined, by the Department, to be at high risk for terrorist attack. See 6 CFR part 27. CFATS represents a national-level effort to minimize terrorism risk to such facilities. Its design and implementation balance maintaining economic vitality with securing facilities and their surrounding communities. The regulations were designed, in collaboration with the private sector and other stakeholders, to take advantage of protective measures already in place and to allow facilities to employ a wide

³ For more information about PCII see 6 CFR part 29 and the PCII Program Web page at <http://www.dhs.gov/protected-critical-infrastructure-information-pcii-program>.

⁴ Section 2 of the CFATS Act of 2014 adds a new Title XXI to the Homeland Security Act of 2002. Title XXI contains new sections numbered 2101 through 2109. Citations to the Homeland Security Act of 2002 throughout this document reference those sections of Title XXI. In addition to being found in amended versions of the Homeland Security Act of 2002, those sections of Title XXI can also be found in section 2 of the CFATS Act of 2014, or in 6 U.S.C. 621-629.

range of tailored measures to satisfy the regulations' Risk-Based Performance Standards. The Department collects the core regulatory data necessary to implement CFATS through the portions of the Chemical Security Assessment Tool (CSAT)⁵ covered under a different information collection (1670-0007). In September 2016, after approval by OMB of information collection 1670-0007, the Department deployed a major update to the CSAT system which incorporated new efficiencies by improving workflow and eliminating duplication of information collected. As a result, the Department proposes revisions to the burden of some instruments in this collection (1670-0014) based primarily upon on data from 2014-2016 and, in part, on new efficiencies that were previously unavailable in the CSAT system.

The proposed revisions for this collection are summarized below:

- This request contains a name change for two previously approved instruments to clarify the functional purpose of both instruments. Specifically, "Request for a Technical Consultation" has been changed to "Compliance Assistance" and "Notification of New Top-Screen" has been changed to "Top-Screen Update." No other revisions to the instruments are proposed.

- The "Request for Redetermination" instrument provides a variety of possible reasons that facilities may select to support the justification for a redetermination request. The Department proposes to amend this instrument to allow facilities to select from a list of possible reasons to support a request for redetermination.

- This request proposes the addition of a new instrument titled "Declaration of Reporting Status" which allows a chemical facility to notify the Department that it is not required to register in CSAT or submit a Top-Screen.

The Department's Methodology in Estimating the Burden for the Request for Redetermination

Number of Respondents

The current information collection estimated that 625 respondents would submit a request for a Request for Redetermination annually. Based on data collected between Calendar Year (CY) 2014-2016, 680 respondents, on average, submitted a Request for Redetermination annually. Because this

figure reasonably aligns with the Department's prior estimate of 625 respondents, the Department will retain the current information collection estimate of 625 respondents for this instrument.

Estimated Time per Respondent

In the current information collection, the estimated time per respondent to prepare and submit a Request for Redetermination is 0.25 hours (15 minutes). Based upon the Department's day-to-day informal discussions with respondents, the Department believes that a reasonable burden for gathering and providing supporting documentation continues to be 0.25 hours and will retain this estimate.

Annual Burden Hours

The annual burden hours for a Request for Redetermination is [0.25 hours × 625 respondents × 1 response per respondent], which equals 156.25 hours.

Total Capital/Startup Burden Cost

The Department provides access to CSAT free of charge and assumes that each respondent already has computer hardware and access to the internet for basic business needs. Therefore, there are no annualized capital or start-up costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.

Total Recordkeeping Burden

There are no recordkeeping burden costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.⁶

Total Annual Burden Cost

The Department assumes that Site Security Officers (SSOs) are responsible for submitting a Request for Redetermination. For the purpose of this notice, the Department maintains this assumption.

Therefore, to estimate the total annual burden, the Department multiplied the annual burden of 156.25 hours by the average hourly wage rate of SSOs of \$67.72 per hour.⁷ Therefore, the total annual burden cost for the Request for Redetermination instrument is \$10,581.25 [156.25 total annual burden

hours × \$67.72 per hour which equals \$10,581.25].

The Department's Methodology in Estimating the Burden for the Request for an Extension

Number of Respondents

The current information collection estimated that 185 respondents would submit a request for a Request for an Extension annually. Based on data collected between CY 2014-2016, 730 of respondents, on average, submitted a Request for an Extension annually. In light of the increase in annual requests for redeterminations received, for the last three years, the Department proposes to revise the estimated number of respondents for this instrument to 730 respondents.

Estimated Time per Respondent

In the current information collection, the estimated time per respondent to prepare and submit a Request for an Extension is 0.25 hours (15 minutes). During 2016, the Department updated CSAT and incorporated an automated feature to collect this information electronically. In addition, based on this change and the Department's informal day-to-day interactions with respondents on the new implementation of CSAT, the Department believes that a reasonable burden for gathering and providing supporting documentation is now 0.08 hours (5 minutes) for this instrument.

Annual Burden Hours

The annual burden hours for the Request for an Extension is [0.08 hours × 730 respondents × 1 response per respondent], which equals 58.40 hours.

Total Capital/Startup Burden Cost

The Department provides access to CSAT free of charge and assumes that each respondent already has computer hardware and access to the internet for basic business needs. Therefore, there are no annualized capital or start-up costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.

Total Recordkeeping Burden

There are no recordkeeping burden costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.⁸

Total Annual Burden Cost

The Department assumes that SSOs are responsible for submitting a Request for an Extension. For the purpose of this notice, the Department maintains this

⁵ For more information about CFATS and CSAT, you may access www.dhs.gov/chemicalsecurity. The current information collection for CSAT (IC 1670-0007) will expire on July 31, 2019.

⁶ The recordkeeping burden for facilities under CFATS is accounted for by the Department under the CSAT Information Collection No. 1670-0007.

⁷ As in the currently approved collection, the Department assumes that SSOs are responsible for submitting the instruments associated with this collection. This notice uses the labor rate for SSOs used by the Department for the recently approved CSAT IC 1670-0007. The Department describes the labor rate in the 60-day PRA notice found at in 80 FR 72086 (Nov. 18, 2015).

⁸ See footnote 6.

assumption. Therefore, to estimate the total annual burden, the Department multiplied the annual burden of 58.40 hours by the average hourly wage rate of SSOs of \$67.72 per hour. Therefore, the total annual burden cost for a Request for an Extension instrument is \$3,954.85 [(58.40 hours × \$67.72 per hour), which equals \$3,954.85].

Top-Screen Update

Number of Respondents

The current information collection estimated that 1,250 respondents would submit a request for a Top-Screen Update annually. Based on data collected between CY 2014–2016, 1,250 of respondents, on average, submitted a Top-Screen Update annually. Because the annual average aligns with the Department's originally estimated threshold, the Department will retain the currently approved estimate of 1,250 respondents for this instrument.

Estimated Time per Respondent

In the current information collection, the estimated time per respondent to prepare and submit a Top-Screen Update is 0.25 hours. During 2016, the Department updated CSAT and incorporated an automated feature to collect this information electronically. In addition, based on this change and the Department's informal day-to-day interactions with respondents on the new implementation of CSAT, the Department believes that a reasonable burden for gathering and providing supporting documentation is now 0.08 hours (5 minutes) for this instrument.

Annual Burden Hours

The annual burden hours for a Top-Screen Update is [0.08 hours × 1,250 respondents × 1.5 responses per respondent], which equals 150 hours.

Total Capital/Startup Burden Cost

The Department provides access to CSAT free of charge and assumes that each respondent already has computer hardware and access to the internet for basic business needs. Therefore, there are no annualized capital or start-up costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.

Total Recordkeeping Burden

There are no recordkeeping burden costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.⁹

Total Annual Burden Cost

The Department assumes that SSOs are responsible for submitting a Top-Screen Update. For the purpose of this notice, the Department maintains this assumption. Therefore, to estimate the total annual burden, the Department multiplied the annual burden of 150 hours by the average hourly wage rate of SSOs of \$67.72 per hour. Therefore, the total annual burden cost for the Top-Screen Update instrument is \$10,158.00 [150 total annual burden hours × \$67.72 per hour], which equals \$10,158.00].

The Department's Methodology in Estimating the Burden for the Compliance Assistance

Number of Respondents

The current information collection estimated that 185 respondents would submit a request for a Compliance Assistance annually. Based on data collected between CY 2014–2016, 455 of respondents, on average, submitted a request for Compliance Assistance annually. In light of the recent increase in annual requests for Compliance Assistance, the Department proposes to revise the estimated number of respondents for this instrument to 455 respondents.

Estimated Time per Respondent

In the current information collection, the estimated time per respondent to prepare and submit a Compliance Assistance is 0.25 hours (approximately 15 minutes). However, based on the Department's informal day-to-day interactions with respondents and past reviews of Compliance Assistance requests, the Department believes that a reasonable burden for gathering and providing supporting documentation is now 0.08 hours (5 minutes) for this instrument.

Annual Burden Hours

The annual burden hours for the Compliance Assistance is [0.08 hours × 455 respondents × 1.5 responses per respondent], which equals 54.60 hours.

Total Capital/Startup Burden Cost

The Department assumes that each respondent already has computer hardware and access to the internet for basic business needs. Therefore, there are no annualized capital or start-up costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.

Total Recordkeeping Burden

There are no recordkeeping burden costs incurred by chemical facilities of

interest or high-risk chemical facilities for this information collection.¹⁰

Total Annual Burden Cost

The Department assumes that SSOs are responsible for submitting a Compliance Assistance. For the purpose of this notice, the Department maintains this assumption. Therefore, to estimate the total annual burden, the Department multiplied the annual burden of 111.38 hours by the average hourly wage rate of SSOs of \$67.72 per hour. Therefore, the total annual burden cost for the Compliance Assistance instrument is \$3,697.51 [(111.38 total annual burden hours × \$67.72 per hour), which equals \$3,697.51].

The Department's Methodology in Estimating the Burden for the Declaration of Reporting Status

This is a new instrument that a facility is not required to use. This instrument, if approved, will allow a chemical facility of interest to notify the Department that it is not required to register in CSAT or submit a Top-Screen.

Number of Respondents

The Department estimates that the number of annual respondents to this instrument will be 480 respondents. This estimate is based on the number of potential chemical facilities of interest that were identified from CY 2014–2016 that may have needed to submit additional information. This information would have aided the Department in determining if the chemical facilities of interest had properly reported or needed to be eliminated from having to report under CFATS.

Estimated Time per Respondent

This instrument will request information from chemical facilities about their business operations to allow the Department to identify whether the facility is a chemical facility of interest that may be excluded from coverage by the CFATS Program. Information collected includes whether the facility possesses Chemicals of Interest (COI) that meet or exceed the Screening Threshold Quantity (STQ) described in Appendix A of the CFATS regulation and whether the facility is statutorily excluded from reporting. The Department expects the estimated time per respondent to prepare and submit a Declaration of Reporting Status is 0.25 hours (15 minutes).

⁹ See footnote 6.

¹⁰ See footnote 6.

Annual Burden Hours

The annual burden hours for the Declaration of Reporting Status is [0.25 hours × 480 respondents × 1 response per respondent], which equals 120 hours.

Total Capital/Startup Burden Cost

The Department assumes that each respondent already has computer hardware and access to the internet for basic business needs. Therefore, there are no annualized capital or start-up costs incurred by chemical facilities of interest or high-risk chemical facilities for this information collection.

Total Recordkeeping Burden

There is no recordkeeping burden for this instrument is *de minimus* as estimated by the Department for similar instruments under the CSAT Information Collection (IC No. 1670–0007).

Total Annual Burden Cost

The Department maintains the assumption found in the other instruments within this Information Collection that SSOs are responsible for submitting information to the Department. Thus, the Department assumes that an SSO will submit the Declaration of Reporting Status.

Therefore, to estimate the total annual burden, the Department multiplied the annual burden of 120 hours by the average hourly wage rate of SSOs of \$67.72 per hour. Therefore, the total annual burden cost for the Declaration of Reporting Status instrument is \$8,126.40 [120 total annual burden hours × \$67.72 per hour], which equals \$8,126.40].

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division.

Title: Chemical Facility Anti-Terrorism Standards (CFATS).

OMB Number: 1670–0014.

Instrument: Request for Redetermination.

Frequency: “On occasion” and “Other”.

Affected Public: Business or other for-profit.

Number of Respondents: 625 respondents.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 156.25 annual burden hours.

Total Burden Cost (capital/startup): \$0.

Total Recordkeeping Burden: \$0.

Total Burden Cost: \$10,581.25.

Instrument: Request for an Extension.

Frequency: “On occasion” and “Other”.

Affected Public: Business or other for-profit.

Number of Respondents: 730 respondents.

Estimated Time per Respondent: 0.08 hours.

Total Burden Hours: 58.40 annual burden hours.

Total Burden Cost (capital/startup): \$0.

Total Recordkeeping Burden: \$0.

Total Burden Cost: \$3,954.85.

Instrument: Top-Screen Update.

Frequency: “On occasion” and “Other”.

Affected Public: Business or other for-profit.

Number of Respondents: 1,250 respondents.

Estimated Time per Respondent: 0.08 hour.

Total Burden Hours: 150 hours.

Total Burden Cost (capital/startup): \$0.

Total Recordkeeping Burden: \$0.

Total Burden Cost: \$10,158.00.

Instrument: Compliance Assistance.

Frequency: “On occasion” and “Other”.

Affected Public: Business or other for-profit.

Number of Respondents: 455 respondents.

Estimated Time per Respondent: 0.08 hours.

Total Burden Hours: 54.60 annual burden hours.

Total Burden Cost (capital/startup): \$0.

Total Recordkeeping Burden: \$0.

Total Burden Cost: \$3,697.51.

Instrument: Declaration of Reporting Status.

Frequency: “On occasion” and “Other”.

Affected Public: Business or other for-profit.

Number of Respondents: 480 respondents.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 120 annual burden hours.

Total Burden Cost (capital/startup): \$0.

Total Recordkeeping Burden: \$0.

Total Burden Cost: \$8,126.40.

Dated: March 4, 2017.

Ryan Comber,

Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2017–07191 Filed 4–7–17; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0005]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Family Unity Benefits

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 9, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0005 in the body of the letter, the agency name and Docket ID USCIS–

2009–0021. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online*. Submit comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS–2009–0021;

(2) *Mail*. Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS–2009–0021 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–817; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals or households: The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR 236.14 and 245a.33.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–817 is approximately 1,358 and the estimated hour burden per response is 2 hours per response; and the estimated number of respondents providing biometrics is 1,358 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 4,210 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$166,355.

Dated: March 28, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–07062 Filed 4–7–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N243;
FXES11130200000–178–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973 (Act), as amended, prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Both the Act and the National Environmental Policy Act require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before May 10, 2017.

ADDRESSES: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6641. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6641.

SUPPLEMENTARY INFORMATION: The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementing section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species,

and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE-123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Permit TE-099278

Applicant: Fred Phillips Consulting, Flagstaff, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) in California.

Permit TE-10107C

Applicant: Bandelier National Monument, Los Alamos, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) and Jemez Mountains salamanders (*Plethodon neomexicanus*) in New Mexico.

Permit TE-10642C

Applicant: Jeffery Williams, Gilmer, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and nest monitoring activities for red-cockaded woodpeckers (*Picoides borealis*) in Arkansas, Louisiana, and Texas.

Permit TE-37418B

Applicant: Brown and Gay Engineers, Inc., Frisco, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for the following species in Oklahoma and Texas:

- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Black-capped vireo (*Vireo atricapilla*)
- Red-cockaded woodpecker (*Picoides borealis*)
- American burying beetle (*Nicrophorus americanus*)

Permit TE-52420A

Applicant: Pima County, Tucson, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for the following species in Arizona:

- Lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Gila chub (*Gila intermedia*)
- Gila topminnow (*Poeciliopsis occidentalis*)

Permit TE-85077A

Applicant: Zara Environmental LLC, Manchaca, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys, salvage, transportation, research, and captive husbandry for the following species in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:

- Coffin Cave mold beetle (*Batrisodes texanus*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Madla's Cave meshweaver (*Cicurina madla*)
- Bracken Bat Cave meshweaver (*Cicurina venii*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Tooth Cave spider (*Neoleptoneta myopica*)
- Ground beetle (*Rhadine exilis*)
- Ground beetle (*Rhadine infernalis*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Bee Creek Cave harvestman (*Texella reddelli*)
- Bone Cave harvestman (*Texella reyesi*)
- Diminutive amphipod (*Gammarus hylleloides*)
- Phantom tryonia (*Tryonia cheatumi*)
- Phantom springsnail (*Pyrgulopsis texana*)
- Golden-cheeked warbler (*Setophaga chrysoparia*)
- Black-capped vireo (*Vireo atricapilla*)
- Comanche Springs pupfish (*Cyprinodon elegans*)
- Fountain darter (*Etheostoma fonticula*)
- San Marcos gambusia (*Gambusia georgei*)

- Pecos gambusia (*Gambusia nobilis*)
- Mexican blindcat (*Prietella phreatophila*)
- Oachita Rock Pocketbook (*Arkansia wheeleri*)
- Pink mucket (*Lampsilis abrupta*)
- Scaleshell (*Leptodea leptodori*)
- Rabbitsfoot (*Quadrula cylindrica cylindrica*)
- Winged mapleleaf (*Quadrula fragosa*)
- Tobusch fishhook cactus (*Scleroactus brevihamatus* ssp. *tobuschii*)
- Navasota ladies'-tresses (*Spiranthes parksii*)
- Texas snowbells (*Styrax texanus*)
- Texas wild-rice (*Zizania texana*)

Permit TE-11267C

Applicant: Marissa Ann Buschow, Avondale, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct activities for southwestern willow flycatchers (*Empidonax traillii extimus*) in Arizona, California, Nevada, New Mexico, and Texas.

Permit TE-65178A

Applicant: Jennifer L. Reidy, Liberty, Missouri.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct tracking and radio-tagging of golden-cheeked warblers (*Dendroica chrysoparia*) in Texas.

Permit TE-828963

Applicant: Connors State College, Muskogee, Oklahoma.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for American burying beetles (*Nicrophorus americanus*) in Oklahoma.

Permit TE-88214B

Applicant: John N. Macey, Temple, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct nest monitoring of black-capped vireos (*Vireo atricapilla*) in Texas.

Permit TE-12438C

Applicant: University of Texas, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and captive care of Mexican blindcats (*Prietella phreatophila*) in Texas.

Permit TE-12441C

Applicant: Jimmy Joe Lovett, Stillwater, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for gray bats (*Myotis grisescens*) in Oklahoma.

Permit TE-168189

Applicant: Michael Clay Green, San Marcos, Texas.

Applicant requests a renewal to an expired permit for research and recovery purposes to conduct presence/absence surveys for golden-cheeked warblers (*Dendroica chrysoparia*) in Texas.

Permit TE-103076

Applicant: Transcon Environmental, Inc., Mesa, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for California tiger salamanders (*Ambystoma californiense*) in California.

Permit TE-92222A

Applicant: Elena C. Pinto-Torres, Austin, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for northern aplomado falcons (*Falco femoralis septentrionalis*) in Texas.

Permit TE-17037C

Applicant: International Boundary and Water Commission, El Paso, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in New Mexico and Texas.

Permit TE-17880C

Applicant: Timothy Brent Garrett, College Station, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for Houston toads (*Bufo houstonensis*) in Texas.

Permit TE-023643

Applicant: U.S. Army, III Corps and Fort Hood, Fort Hood, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct tracking and radio-tagging of golden-cheeked warblers (*Dendroica chrysoparia*) in Texas.

Permit TE-44542B

Applicant: Olsson Associates, Oklahoma City, Oklahoma.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct surveys for the following species within Illinois, Iowa, Kansas, Missouri, Nebraska, Oklahoma, and Texas:

- Gray bat (*Myotis grisescens*)
- Indiana bat (*Myotis sodalis*)
- Ozark big-eared bat (*Corynorhinus (=plecotus) townsendii ingens*)

Permit TE-081884

Applicant: Andrew G. Gluesenkamp, San Antonio, Texas.

Applicant requests a renewal and amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys, collection, research, and captive husbandry for the following species in Texas:

- Austin blind salamander (*Eurycea waterlooensis*)
- Barton Springs salamander (*Eurycea sosorum*)
- Comal Springs dryopid beetle (*Stygoparnus comalensis*)
- Comal Springs riffle beetle (*Heterelmis comalensis*)
- Mexican blindcat (*Prietella phreatophila*)
- Reticulated flatwoods salamander (*Ambystoma bishop*)
- Texas blind salamander (*Typhlomolge rathbuni*)

Permit TE-17907C

Applicant: Landhawk Consulting LLC, Pharr, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species in Texas:

- Black-capped vireo (*Vireo atricapilla*)
- Northern aplomado falcon (*Falco femoralis septentrionalis*)
- Interior least tern (*Sterna antillarum*)
- Red-cockaded woodpecker (*Picoides borealis*)
- Houston toad (*Bufo houstonensis*)

Permit TE-35163A

Applicant: Joseph A. Grzybowski, Norman, Oklahoma.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys, mist-net, band, collect blood, and attach radio-transmitters to black-capped vireos (*Vireo atricapilla*) in Oklahoma.

Permit TE-17466C

Applicant: David L. Dickson, Dallas, Texas.

Applicant requests a new permit for research and recovery purposes to

conduct presence/absence surveys for American burying beetles (*Nicrophorus americanus*) in Oklahoma and Texas.

Permit TE-17021C

Applicant: April Michelle Beard, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for black-capped vireos (*Vireo atricapilla*) in Texas.

Permit TE-17040C

Applicant: Paul B. Samollow, College Station, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and collect fin clips from Leon Springs pupfish (*Cyprinodon bovinus*) in Texas.

Permit TE-206016

Applicant: Andrew R. Middick, Edmond, Oklahoma.

Applicant requests an amendment and renewal to an existing permit for research and recovery purposes to conduct presence/absence surveys for American burying beetles (*Nicrophorus americanus*) in Arkansas, Kansas, Oklahoma, and Texas.

Permit TE-799103

Applicant: Hicks & Company, Austin, Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in Arizona, New Mexico, and Texas.

Permit TE-19907C

Applicant: Amanda Lillie Miller, Lascassas, Tennessee.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys, salvage, transportation, and research on the following species in Texas:

- Helotes mold beetle (*Batrisodes venyivi*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Madla's Cave meshweaver (*Cicurina madla*)
- Bracken Bat Cave meshweaver (*Cicurina venii*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (*Rhadine exilis*)
- Ground beetle (*Rhadine infernalis*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)

Permit TE-20270C

Applicant: National Park Service—
Sonoran Desert Network, Tucson,
Arizona.

Applicant requests a new permit for research and recovery purposes to conduct captive care and reintroduction activities for Gila topminnow (*Poeciliopsis occidentalis*) in Arizona.

Permit TE-88519A

Applicant: Forest Service—
Southwestern Regional Office,
Albuquerque, New Mexico.

Applicant requests an amendment and renewal to an existing permit for research and recovery purposes to conduct presence/absence surveys for New Mexico meadow jumping mice (*Zapus hudsonius luteus*) in Arizona and New Mexico.

Permit TE-21339C

Applicant: Erik M. Andersen, Tucson,
Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in Arizona and New Mexico.

Permit TE-800611

Applicant: SWCA, Incorporated, Austin,
Texas.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for the American burying beetle (*Nicrophorus americanus*) in, Arkansas, Kansas, Massachusetts, Michigan, Missouri, Nebraska, Ohio, Oklahoma, Rhode Island, South Dakota, and Texas; and to conduct presence/absence surveys for the following species in Arizona and New Mexico:

- Rio Grande silvery minnow (*Hybognathus amarus*)
- Loach minnow (*Tiaroga cobitis*)
- Spikedace (*Meda fulgida*)

Permit TE-80964B

Applicant: Jean Marie L. Rieck,
Flagstaff, Arizona.

Applicant requests an amendment to an existing permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona, Colorado, Nevada, New Mexico, and Utah.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial

determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement as provided by Department of the Interior implementing regulations in the Code of Federal Regulations, title 43, part 46 (43 CFR 46.205, 46.210, and 46.215).

Comments Publically Available

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section.

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.

Authority

We provide this notice under the Act, section 10 (16 U.S.C. 1531 *et seq.*).

Dated: March 2, 2017.

Joy E. Nicholopoulos,

*Acting Regional Director, Southwest Region,
U.S. Fish and Wildlife Service.*

[FR Doc. 2017-07073 Filed 4-7-17; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs**

**[178A2100DD/AAKC001030/
A0A501010.999900253G]**

Indian Gaming; Tribal-State Class III Gaming Compact Taking Effect in the State of California

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Tribal-State Class III Gaming Compact entered into between the San Manuel Band of Mission Indians and the State of California is taking effect.

DATES: The effective date of the compact is April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Section 11 of the Indian Gaming Regulatory Act (IGRA) requires the Secretary of the Interior to publish in the **Federal Register** notice of an approved Tribal-State compact that is for the purpose of engaging in Class III gaming activities on Indian lands. *See* Public Law 100-497, 25 U.S.C. 2701 *et. seq.* All Tribal-State Class III compacts, including amendments, are subject to review and approval by the Secretary under 25 CFR 293.4. The Secretary took no action on the compact entered into between the San Manuel Band of Mission Indians and the State of California within 45 days of its submission. Therefore, the compact is considered to have been approved, but only to the extent the compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: April 3, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017-07190 Filed 4-7-17; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

**[LLNMA00000.L1220000.AL0000 17X
LXSSG0860000]**

Notice of Public Meeting for the Albuquerque District Resource Advisory Council

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Albuquerque District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Albuquerque District RAC will hold a public meeting on Monday, May 1, 2017. The meeting will begin at 9:30 a.m. MT and end at 4:00 p.m. MT.

ADDRESSES: The meeting will be held at the BLM Socorro Field Office, 901 South Old Highway 85, Socorro, NM 87801.

FOR FURTHER INFORMATION CONTACT: Jack River, Forester, BLM Albuquerque District Office, 100 Sun Avenue NE., Suite 330, Albuquerque, NM 87109, (505) 761-8755 or jriver@blm.gov. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1(800) 877-8339 to contact the above individual during normal business hours. The Service is

available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Albuquerque District RAC consists of 10 members chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM resource managers regarding management plans and proposed resource actions on public land in the BLM's Albuquerque District. This meeting is open to the public in its entirety. Information to be distributed to the Albuquerque District RAC is requested prior to the start of each meeting.

Agenda items for the meeting include: Introduction of new RAC members, an update on the Planning 2.0 rule, updates on resource management, the law enforcement program, and responsibilities in both the Rio Puerco and Socorro Field Offices. Any other matters that may reasonably come before the Albuquerque District RAC may also be addressed. A public comment period will be available from 11:00–11:30 a.m. during the meeting. Unless otherwise approved by the Albuquerque District RAC Chair, the public comment period will last no longer than 30 minutes. Depending on the number of individuals wishing to comment and time available, oral comments may be limited.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Melanie Barnes,

Deputy State Director, Lands and Resources.

[FR Doc. 2017-07112 Filed 4-7-17; 8:45 am]

BILLING CODE 4310-FB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLID933000.L54200000.PN0000.
LVIDID1602100; IDI-38103]

Notice of Application for Recordable Disclaimer of Interest in Lands, Kootenai County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The City of Coeur d'Alene, Idaho, has filed an application with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest from the United States for land lying along the north shore of the Spokane River in Kootenai County, Idaho. This notice informs the public of the opportunity to comment on the pending application.

DATES: Comments on this application should be received by July 10, 2017.

ADDRESSES: Comments must be filed in writing with James M. Fincher, Chief, Branch of Lands, Minerals, and Water Rights, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, ID 83709.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Supervisory Realty Specialist, at the above address or by phone at (208) 373-3863. Persons who use a telecommunications device for the deaf (TDD) may contact Mr. Sullivan by calling the Federal Relay Service (FRS) at (800) 877-8339. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Sullivan. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), as amended, the City of Coeur d'Alene, Idaho, has filed an application for a Disclaimer of Interest for lands along the north shore of the Spokane River described as follows:

A parcel of land situated in a portion of Lot 4, Section 9, in Township 50 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, being a portion of land surveyed as shown in a Record of Survey filed on September 29, 2015 for the record under Instrument No. 2517339000 in the Office of the Recorder of Kootenai County, Idaho, at the request of Welch Comer and Associates, Inc., being more particularly described as follows:

Commencing at a point for the east one-sixteenth (E $\frac{1}{16}$) section corner of sections 4 and 9, which bears South 88°01'10" East a distance of 1326.55 feet from the one-quarter ($\frac{1}{4}$) section corner

of sections 4 and 9, and bears North 88°01'10" West a distance of 1326.55 feet from the corner of sections 3, 4, 9, and 10;

Thence, South 1°59'30" West along the east-east (E-E) one-sixteenth subdivision of section line of section 9 (west line of lot 4, section 9), a distance of 405.21 feet to a point on the northerly right-of-way line of Burlington Northern Railroad and being the *Point of Beginning* of the herein described parcel;

Thence along the northerly right-of-way line the following 6 courses:

1. North 77°31'19" East, a distance of 126.86 feet;

2. South 74°58'01" East, a distance of 396.70 feet;

3. North 26°22'19" East, a distance of 60.00 feet to a point of curvature of a non-tangent curve to the left;

4. Southeast along the non-tangent curve to the left through a central angle of 6°54'47", a chord bearing of South 66°26'54" East and a chord distance of 542.62 feet, having a radius of 4500.00 feet, an arc distance of 542.95 feet to a point of curvature of a non-tangent compound curve to the left;

5. Southeast along the non-tangent compound curve to the left through a central angle of 3°14'53", a chord bearing of South 72°52'34" East and a chord distance of 286.53 feet, having a radius of 5055.00 feet, an arc distance of 286.57 feet;

6. South 74°30'00" East, a distance of 23.86 feet to a point on the section line between sections 9 and 10 (east line of lot 4, section 9, identical with the west line of lot 1, section 10);

Thence, South 0°59'33" West, along the section line a distance of 62.01 feet to a point on the southerly right-of-way line of Burlington Northern Railroad;

Thence along the southerly right-of-way line the following 13 courses:

1. North 74°30'00" West, a distance of 39.37 feet to a point of curvature of a curve to the right;

2. Northwest along the curve to the right through a central angle of 3°14'53", a chord bearing of North 72°52'33" West and a chord distance of 289.93 feet, having a radius of 5115.00 feet, an arc distance of 289.97 feet;

3. North 71°15'07" West, a distance of 66.36 feet;

4. South 18°44'53" West, a distance of 20.00 feet;

5. North 71°15'07" West, a distance of 181.93 feet to a point of curvature to the left;

6. Northwest along the curve to the left through a central angle of 14°09'06", a chord bearing of North 78°19'40" West and a chord distance of 327.67 feet, having a radius of 1330.00 feet, an arc distance of 328.50 feet;

7. North 85°24'13" West, a distance of 455.39 feet to a point on the east-east (E-E) one-sixteenth subdivision of section line of section 9 (west line of lot 4, section 9);

Thence, North 1°59'30" East along the east-east (E-E) one-sixteenth subdivision of section line of section 9 (west line of lot 4, section 9) a distance of 131.79 feet to the *Point of Beginning*, containing 3.29 acres of land.

A map showing the parcel is available on the BLM Web site, <https://www.blm.gov/programs/lands-and-reealty/regional-information/idaho>.

Basis of Bearings: Per Record of Survey filed on September 29, 2015, for the record under Instrument No. 2517339000 in the Office of the Recorder of Kootenai County, Idaho, at the request of Welch Comer and Associates, Inc.

The above-described land in section 9 is claimed by the City of Coeur d'Alene on the basis that the land was patented to the Northern Pacific Railroad Company on December 22, 1894, under the Act of July 2, 1864 (13 Stat. 356), and that the City of Coeur d'Alene is a successor in interest to the Northern Pacific Railroad Company in the described portion of section 9.

A Recordable Disclaimer of Interest is necessary because there is a discrepancy in the chain of title, which clouds the title to the above-described lands. The Kootenai County deed records at Volume C, page 361, indicate that on August 24, 1887, Northern Pacific Railroad Company conveyed title to lot 4 of Section 9, T. 50 N., R. 4 W. to Robert W. Cochran. However, as stated above, the Northern Pacific Railroad Company did not receive a patent to this land until 1894. A disclaimer of the interest in the surface estate, as reflected in the 1894 patent, makes clear that the U.S. does not have a claim to such lands except for the mineral rights specifically reserved in that patent. Issuance of a recordable disclaimer will remove any cloud on the title to the land.

Comments, including names and street addresses of commenters, will be available for public review at the BLM Idaho State Office (see **ADDRESSES** above), during regular business hours, Monday through Friday, except Federal holidays. 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.

If no valid objection is received, a Disclaimer of Interest may be approved, stating that the United States has no valid interest in the above-described land other than the reserved mineral interests in the above-described portion of section 9.

Authority: 43 CFR Subpart 1864.

James M. Fincher,

Chief, Branch of Lands, Minerals and Water Rights.

[FR Doc. 2017-07021 Filed 4-7-17; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520]

Notice of Proposed Information Collection for 1029-0024

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of proposed information collection; request for comments for 1029-0024.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing that the information collection request for the Procedures and Criteria for Approval or Disapproval of State Program Submissions, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by May 10, 2017, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395-5806 or via email to OIRA_submission@omb.eop.gov. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 203—SIB, Washington, DC 20240, or electronically

to jtrelease@osmre.gov. Please refer to OMB control number 1029-0024 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208-2783, or electronically at jtrelease@osmre.gov. You may also review this collection by going to <http://www.reginfo.gov> (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI-OSMRE).

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR part 732 for approving or disapproving state program submissions. OSMRE is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029-0024 and is referenced in § 732.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on January 11, 2017 (82 FR 3356). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR part 732—Procedures and Criteria for Approval or Disapproval of State Program Submissions.

OMB Control Number: 1029-0024.

Summary: Part 732 establishes the procedures and criteria for the approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: Once and annually.

Description of Respondents: 24 State and 4 Tribal regulatory authorities.

Total Annual Responses: 33.

Total Annual Burden Hours: 4,765.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's

burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the addresses listed under **ADDRESSES**. Please refer to the appropriate OMB control number in all correspondence.

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: March 27, 2017.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2017-07061 Filed 4-7-17; 8:45 am]

BILLING CODE 4310-05-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-696 (Fourth Review)]

Pure Magnesium From China

Determination

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty order on pure magnesium from China would likely to lead continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on October 3, 2016 (81 FR 67697) and determined on January 6, 2017, that it would conduct an expedited review (82 FR 9596, February 7, 2017).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on March 29, 2017. The views of the Commission are contained

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

in USITC Publication 4678 (March 2017), entitled *Pure magnesium from China: Investigation No. 731-TA-696 (Fourth Review)*.

By order of the Commission.

Issued: April 5, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-07119 Filed 4-7-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1313 (Final)]

1,1,1,2-Tetrafluoroethane (R-134a) From China

Determination

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that an industry in the United States is materially injured by reason of imports of 1,1,1,2-tetrafluoroethane (“R-134a”) from China, provided for in subheading 2903.39.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).²

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted this investigation effective March 3, 2016, following receipt of a petition filed with the Commission and Commerce by the American HFC Coalition and its individual members (Amtrol, Inc., West Warwick, Rhode Island; Arkema, Inc., King of Prussia, Pennsylvania; The Chemours Company FC LLC, Wilmington, Delaware; Honeywell International Inc., Morristown, New Jersey; Hudson Technologies, Pearl River, New York; Mexichem Fluor Inc., St. Gabriel, Louisiana; and Worthington Industries, Inc., Columbus, Ohio) and District Lodge 154 of the International Association of Machinists and Aerospace Workers. The Commission scheduled the final phase of the investigation following notification of a preliminary determination by

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

² The Commission also finds that imports subject to Commerce’s affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on China.

Commerce that imports of R-134a from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission’s investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 7, 2016 (81 FR 78186). The hearing was held in Washington, DC, on February 23, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determination in this investigation on April 5, 2017. The views of the Commission are contained in USITC Publication 4679 (April 2017), entitled *1,1,1,2-Tetrafluoroethane (R-134a) from China: Investigation No. 731-TA-1313 (Final)*.

By order of the Commission.

Issued: April 5, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-07120 Filed 4-7-17; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on March 9, 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”), UHD Alliance, Inc. (“UHD Alliance”) 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, Qualcomm Incorporated, San Diego, CA; HDAnywhere Ltd., Malvern, UNITED KINGDOM; and CerebrEX, Inc., Yodogawa, Osaka, JAPAN, have been added as parties to this venture.

Also, Rogers Communications, Toronto, Ontario, CANADA, has withdrawn as a party 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 UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance 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 July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on December 22, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 2017 (82 FR 4923).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-07094 Filed 4-7-17; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Halon Alternatives Research Corporation, Inc.

Notice is hereby given that, on March 9, 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”), Halon Alternatives Research Corporation, Inc. (“HARC”) 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, Alyeska Pipeline Service Company, Anchorage, AK; Gielle Industries, Altamura, ITALY; and Hilcorp Energy Company, Houston, TX, have been added as parties to this venture.

Also, N2 Towers, Belleville, Ontario, CANADA, has withdrawn as a party 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 HARC intends to file additional written notifications disclosing all changes in membership.

On February 7, 1990, HARC 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 March 7, 1990 (55 FR 8204).

The last notification was filed with the Department on March 2, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 30, 2015 (80 FR 24278).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-07092 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Smiths Group plc, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Smiths Group plc, et al.*, Civil Action No. 1:17-cv-00580. On March 30, 2017, the United States filed a Complaint alleging that Smiths Group plc’s (“Smiths”) proposed acquisition of Morpho Detection, LLC and Morpho Detection International, LLC (“Morpho”) from Safran S.A. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Smiths to divest Morpho’s global explosive trace detection business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division’s Web site at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division’s Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, Department of Justice, 450 Fifth Street

NW., Suite 8700, Washington, DC 20530 (telephone: 202-307-0924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court For the District of Columbia

United States of America, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8700, Washington, DC 20530, Plaintiff, v. Smiths Group PLC, 4th Floor, 11-12 St. James Square, London, SW1Y 4LB, United Kingdom, SAFRAN S.A., 2, boulevard du General-Martial-Valin, Paris Cedex 15, 75724, France, Morpho Detection, LLC, 7151 Gateway Boulevard, Newark, CA 94560, and Morpho Detection International, LLC, 2201 W. Royal Lane, Suite 150, Irving, Texas 75063, Defendants.

Case No.: 17-cv-00580

Judge: Rosemary M. Collyer

FILED: 03/30/2017

COMPLAINT

The United States of America (“United States”), acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition of the global explosive detection business of Morpho Detection, LLC and Morpho Detection International, LLC (collectively “Morpho”) from Safran S.A. by Smiths Group plc (“Smiths”) and to obtain other equitable relief. The United States alleges as follows:

I. NATURE OF THE ACTION

1. Smiths proposes to acquire Morpho, a California-based wholly owned subsidiary of Safran S.A. Smiths and Morpho are two of the three leading providers of desktop explosive trace detection (“ETD”) devices and related services in the United States. ETD devices are used to detect trace amounts of explosives or narcotics on persons or objects in airports and other high-risk critical infrastructure sites.

2. Smiths’ acquisition of Morpho would eliminate competition between Smiths and Morpho for desktop ETD devices sold for passenger air travel or air cargo transport in the United States. The competition between Smiths and Morpho in the development, engineering, production, distribution, sales, and servicing of desktop ETD devices in the United States has benefitted customers. Smiths and Morpho compete directly on price, innovation, and quality of service. The proposed acquisition would give Smiths the ability and the incentive to raise prices or decrease the quality of service for desktop ETD devices sold for passenger air travel or air cargo transport to customers. The elimination of Morpho, an aggressive bidder and

low-cost provider, would reduce Smiths' incentive to compete on price and service post merger. Further, because Morpho has actively worked to advance its ETD technology, it provides Smiths an incentive to innovate that will be lost as a result of this acquisition. As a result, the proposed acquisition likely would substantially lessen competition in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel or air cargo transport in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. THE DEFENDANTS AND THE TRANSACTION

3. Defendant Smiths Group plc is a London-based corporation with a U.S. subsidiary, Smiths Detection U.S., Inc. ("Smiths Detection"), headquartered in Edgewood, Maryland. Smiths is a globally diversified technology company that designs, manufactures and delivers products for the healthcare, energy and petrochemicals, threat and contraband detection, and telecommunications industries. Smiths' subsidiary, Smiths Detection, develops, engineers, produces, sells, and services a wide range of threat and contraband detection technologies, including X-ray, ETD devices, and infrared spectroscopy used at airports, ports and borders, and in critical infrastructure worldwide. Smiths is also the dominant supplier of aftermarket parts and service for its ETD devices. In 2015, Smiths' worldwide revenues were approximately \$4.5 billion. Smiths Detection's worldwide revenues were approximately \$730 million and U.S. revenues were approximately \$225.7 million.

4. Defendant Morpho, headquartered in Newark, California, is a division of Safran S.A. ("Safran"), a \$17.3 billion aerospace and defense company based in Paris, France. Morpho focuses on the development, engineering, production, distribution, sale, and servicing of two categories of threat and contraband detection technologies and devices—computed tomography explosive detection systems and ETD devices—used at airports, air cargo facilities, and other high-risk critical infrastructure sites worldwide. Morpho is also the dominant supplier of aftermarket parts and service for its ETD devices. In 2015, Morpho's worldwide revenues were approximately \$325 million, and its U.S. revenues were approximately \$262 million.

5. Pursuant to an agreement dated April 20, 2016, Smiths intends to purchase Morpho's explosive detection system and ETD device businesses. The

value of the transaction is approximately \$710 million.

III. JURISDICTION AND VENUE

6. The United States brings this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

7. Defendants Smiths and Morpho develop, engineer, produce, distribute, sell, and service desktop ETD devices in the flow of interstate commerce. Defendants' activities in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices substantially affect interstate commerce. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

8. Defendants have consented to venue and personal jurisdiction in the District of Columbia. Venue is therefore proper in this District under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(c).

IV. TRADE AND COMMERCE

A. Explosive Detection Industry Overview

9. Equipment designed to detect and identify explosives is used across a broad spectrum of government agencies and private companies for security screening. This equipment includes ETD devices used at passenger checkpoints, visitor entry areas, or air cargo facilities throughout the United States. ETD devices may be stationary ("desktop" ETDs) or mobile ("handheld" ETDs).

10. Desktop ETD devices are a secondary screening method. Secondary screening methods are employed after an alert is made by a primary screening device, such as an X-ray scanner or an explosive detection system. Desktop ETD devices detect trace amounts of explosive residue or other contraband on hands, belongings, and cargo from a tiny sample swabbed from the object and placed inside the detector.

11. Desktop ETD devices used at airport checkpoints and air cargo facilities need an external power source and a controlled environment, but are considered more reliable and accurate than handheld ETD devices, and are capable of greater throughput. Generally, an ETD device's operational performance is evaluated on sensitivity, selectivity or identification, and speed.

12. U.S. customers require desktop ETD vendors to have a local service network, with a ready supply of

consumables and components. A local service presence allows vendors to provide training to new employees who operate their devices and provide timely repair and maintenance. Likewise, desktop ETDs require regular service, maintenance, and a ready supply of consumables, so having a local service presence enables vendors to respond expeditiously when a device requires attention, and reduces downtime that can slow the pace of passenger and baggage screening at airports and other critical facilities.

B. Desktop ETD Device Industry Regulation

13. The Transportation Security Administration ("TSA") mandates separate security performance screening standards for desktop ETD devices used for passenger air travel and for air cargo transport. Desktop ETD devices that meet the TSA threat certification standards are listed either on: (a) The Qualified Product List ("QPL") for desktop ETD devices purchased by the TSA for checkpoint screening of passengers, carry-on bags and hold baggage at airports; and/or (b) the Air Cargo Screening Technology List ("ACSTL"), for desktop ETD devices purchased by air cargo companies for screening of air cargo. In addition, desktop ETD devices purchased by the TSA for passenger air travel include customized software that is exclusively available to the TSA.

14. U.S. sales of desktop ETD devices to the TSA for passenger air travel depend upon a small number of large, infrequent TSA procurements that typically arise when the TSA updates its certification standards to meet emerging threats. Annual sales of desktop ETD devices used for passenger air travel in the United States averaged about \$13 million over the last six years. Sales to air cargo companies follow a similar pattern, with large procurements occurring infrequently as air cargo carriers respond to evolving threats and new technology. Annual sales of desktop ETD devices used to screen air cargo averaged approximately \$5.5 million over the last six years.

15. QPL qualification is a multi-step process that can take up to two years. Labs under the direction of the Department of Homeland Security test devices to ensure the necessary threats are detected. The TSA then conducts operational testing on-site at airports to confirm that its performance standards are met. If a desktop ETD device makes it through these steps, it will be qualified and placed on the QPL.

16. When the TSA opens a solicitation for desktop ETD devices, only vendors

with desktop ETD devices on the QPL can participate. The TSA is currently conducting an expedited evaluation of desktop ETD devices to be qualified for inclusion on the QPL, in anticipation of an upcoming procurement likely in the second half of 2017. The TSA does not publish the QPL, but does issue a press release when a contract is awarded, which identifies the name of the winning vendor and its desktop ETD device.

17. The ACSTL qualification process generally is the same as the qualification process for the QPL, but the mandated threat detection standards differ in order to account for a wider range of air cargo packaging material.

18. The current ACSTL threat detection standard expires in the next two years. The TSA has begun testing and qualifying new desktop ETD devices to meet a new ACSTL threat detection standard. Grandfathered devices may still be used by air cargo carriers until the expiration date, but any new purchases of such devices require a TSA waiver.

V. RELEVANT MARKETS

19. The merger is likely to lead to a substantial lessening of competition for the sale of desktop ETD devices for two applications in the United States: passenger air travel and air cargo transport. Both desktop ETD device applications have unique customers with different technical and service requirements.

A. Desktop ETD Devices for Passenger Air Travel in the United States

20. Desktop ETD devices for passenger air travel is a relevant product market. These devices are purchased exclusively by the TSA. The TSA may purchase only desktop ETD devices that are listed on the QPL, and QPL qualification requires that devices meet specific criteria and successfully complete rigorous testing. Further, as these devices may not be sold outside of the United States, the relevant geographic market is the United States. A hypothetical profit-maximizing monopolist of desktop ETD devices sold for passenger air travel in the United States likely would impose a SSNIP that would not be defeated by substitution away from desktop ETD devices with QPL certification or by the TSA purchasing desktop ETD devices outside the United States. Accordingly, the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel in the United States is a relevant market within the meaning of Section 7 of the Clayton Act.

B. Desktop ETD Devices for Air Cargo Transport in the United States

21. Desktop ETD devices used to screen air cargo is a relevant product market. Air cargo transport companies operating in the United States require that desktop ETD devices meet certain performance standards, which typically include ACSTL qualification by the TSA. Desktop ETD devices on the ACSTL must undergo significant, multi-step testing to ensure they meet and deliver the required technical standards and performance. As these devices are purchased for use at airports located in the United States, and because their sale involves a significant service component, the relevant geographic market is the United States. A hypothetical profit-maximizing monopolist of desktop ETD devices sold for air cargo transport in the United States likely would impose a SSNIP that would not be defeated by substitution away from desktop ETD devices in the relevant market or by air cargo companies purchasing the desktop ETD devices outside the United States. Accordingly, the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for air cargo transport in the United States is a relevant product market within the meaning of Section 7 of the Clayton Act.

VI. ANTICOMPETITIVE EFFECTS OF THE PROPOSED TRANSACTION

22. Smiths' acquisition of Morpho would eliminate head-to-head competition between Smiths and Morpho in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for passenger air travel and air cargo transport in the United States. For their most significant customers, Smiths and Morpho are two of only three suppliers which historically have qualified to provide desktop ETD devices and related services for these two applications in the United States.

A. Desktop ETD Devices for Passenger Air Travel in the United States

23. The TSA historically has qualified three suppliers to meet its QPL standards for desktop ETD devices for passenger air travel. Smiths and Morpho are two of those three suppliers and, in the past, the two companies have competed on price and other terms of sale. That competition has led to lower prices, better service, and more innovative products for the TSA.

24. In particular, Morpho has a history of bidding aggressively for contracts to supply and service desktop

ETD devices in the passenger air travel market. By underbidding its rivals, Morpho delivered to the TSA a lower-priced option, while also incentivizing competitors to respond with more competitive prices and terms of sale. Absent the merger, Morpho is expected to continue to be an aggressive competitor. Accordingly, the proposed acquisition would give Smiths the ability and the incentive to raise prices and decrease the quality of its service.

25. The TSA is expected to issue a new solicitation to supply desktop ETD devices in the second half of 2017. Smiths and Morpho likely will continue to be two of only three competitors qualified to bid for this significant supply contract. The acquisition would reduce from three to two the number of suppliers for the TSA's upcoming procurement, likely leading to higher prices and less advantageous terms for that agency.

26. Smiths and Morpho each have sizable and active research and development operations and teams of engineers and technical staff working on desktop ETD devices for the passenger air travel market. Each firm has provided the other with the incentive to improve current products and develop new desktop ETD devices. A merged Smiths and Morpho would eliminate that competition depriving customers of more innovative future products and services.

27. The proposed transaction, therefore, likely would substantially lessen competition in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the passenger air travel market in the United States, lead to higher prices, decreased innovation, and poorer quality of service in violation of Section 7 of the Clayton Act.

B. Desktop ETD Devices for Air Cargo Transport in the United States

28. Smiths' acquisition of Morpho would eliminate head-to-head competition between Smiths and Morpho in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for the air cargo transport market in the United States. Smiths and Morpho are two of only three suppliers which are qualified to provide desktop ETD devices and a local service network.

29. As in the passenger air transport market, Morpho has a history of bidding aggressively for contracts to supply and service desktop ETD devices in the air cargo transport market, which is likely to result in lower bids from Morpho and its rivals once new ACSTL solicitations

are announced in the next two years. The proposed acquisition would, therefore, give Smiths the ability and the incentive to raise prices and decrease the quality of its service for air cargo transport customers.

30. The sizable research and development operations, engineers, and technical staff of Smiths and Morpho, respectively, which work on desktop ETD devices for the passenger air travel market, also work to improve and develop new desktop ETD devices for the air cargo transport market. Each firm has provided the other with the incentive to improve current products and develop new desktop ETD devices for the air cargo transport market. A merged Smiths and Morpho would eliminate that incentive, potentially depriving customers of more innovative future products and services.

31. The proposed transaction, therefore, likely would substantially lessen competition in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the air cargo transport market in the United States, lead to higher prices, decreased innovation, and poorer quality of service in violation of Section 7 of the Clayton Act.

VII. DIFFICULTY OF ENTRY

32. Entry into the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the United States is difficult, and unlikely to be timely or sufficient to prevent the harm to competition caused by the elimination of Morpho as an independent supplier.

A. Desktop ETD Devices for Passenger Air Travel in the United States

33. Firms attempting to enter into the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the passenger air travel market face substantial entry barriers in terms of time and technology. The TSA process for qualification of a new desktop ETD device normally takes from 12 to 24 months. Testing includes multiple steps, each of which must be passed to proceed: (1) Submission and corresponding review of a data package; (2) two rounds of functional testing of the unit in a controlled environment; and (3) operational testing of the unit on-site at an airport. As a result of these barriers, entry would not be timely, likely, or sufficient to defeat a price increase arising from the substantial lessening of competition that likely would result from Smiths' acquisition of Morpho.

B. Desktop ETD Devices for Air Cargo Transport in the United States

34. Firms attempting to enter into the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the air cargo transport market likewise face substantial entry barriers in terms of time and technology. Air cargo companies typically require desktop ETD device providers to meet ACSTL standards, which demand an investment of time and money similar to that required under the TSA's QPL-testing process. Setting up a local network of service and training personnel and equipment is likewise a cost- and time-intensive endeavor. As a result of these barriers, entry would not be timely, likely, or sufficient to defeat a price increase arising from the substantial lessening of competition from Smiths' acquisition of Morpho.

VIII. VIOLATION ALLEGED

35. The acquisition of Morpho by Smiths likely would substantially lessen competition in the market for the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel or air cargo transport in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

36. Unless enjoined, the transaction likely would have the following anticompetitive effects, among others:

- a. actual and potential competition between Smiths and Morpho in the market for the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel or air cargo transport in the United States would be eliminated;
- b. competition generally in the market for the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel or air cargo transport in the United States would be substantially lessened;
- c. prices for desktop ETD devices in the United States likely would be less favorable, and innovation and quality of service relating to desktop ETD devices sold for passenger air travel or air cargo transport in the United States likely would decline.

IX. REQUESTED RELIEF

37. The United States requests that this Court:

- a. adjudge and decree Smiths' proposed acquisition of Morpho to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. 18;
- b. preliminarily and permanently enjoin and restrain defendants and all

persons acting on their behalf from consummating the proposed acquisition of Morpho by Smiths from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine Morpho with the operations of Smiths;

c. award the United States its costs of this action; and

d. award the United States such other and further relief as the Court deems just and proper.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

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Dated: March 30, 2017

United States District Court for the District of Columbia

United States of America, Plaintiff, v. Smiths Group PLC, Safran S.A., Morpho Detection, LLC, and Morpho Detection International, LLC, Defendants.

Case No.: 17-cv-00580

Judge: Rosemary M. Collyer

Filed: 03/30/2017

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on March 30, 2017, the United States and defendants, Smiths Group plc, Safran S.A., Morpho Detection, LLC, and Morpho Detection International, LLC (collectively, "defendants"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or

assets by the defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires defendants to make a certain divestiture for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestiture required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of this action and over each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. DEFINITIONS

As used in this Final Judgment:

A. "Acquirer" means the entity to which defendants divest the Divestiture Assets.

B. "Smiths" means defendant Smiths Group plc, a United Kingdom public liability company headquartered in London, England, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Safran" means defendant Safran S.A., a French corporation with its headquarters in Paris, France, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Morpho" means defendants Morpho Detection, LLC, a Delaware limited liability company with its headquarters in Newark, California, and Morpho Detection International LLC, a Delaware limited liability company with its headquarters in Irving, Texas, their respective successors and assigns, and their respective subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their respective directors, officers, managers, agents, and employees. Morpho is a wholly owned subsidiary of Safran.

E. "ETD devices" means explosive trace detection equipment, which is used to detect trace amounts of

explosive residue on hands, belongings, or cargo or in the air after an alert is triggered from a primary screening device.

F. "Desktop ETD devices" means stationary ETD devices used for secondary screening of passengers and cargo traveling by air.

G. "Divestiture Assets" means Morpho's global explosive trace detection ("ETD") business including, but not limited to:

(1) Morpho's leases or subleases to the following facilities:

(a) Morpho's R&D, manufacturing, sales, and service facility located at 23 Frontage Road, Andover, Massachusetts 01810 ("Andover facility");

(b) Morpho's ETD device R&D facility located at 1251 East Dyer Avenue, Suite 140, Santa Ana, California 92705 ("Santa Ana facility");

(c) Morpho's sales and service depot located at Granary House, Station Road, Great Shelford, Cambridge, England CB22 5LR;

(d) Morpho's service depot located at 1585 Britannia Road East, Unit B3, Mississauga, Ontario L4W 2M4, Canada; and

(e) Morpho's service depot located at 7-9 Orion Road, Unit 1, Lane Cove NSW 2066, Australia.

(2) All tangible assets used in connection with Morpho's global ETD business, including, but not limited to, all research and development assets; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including service contracts, service subcontracts, and supply agreements or contracts; all customer lists, customer records, contracts, accounts, and credit records; all repair and performance records and all other records; and

(3) All intangible assets used in connection with Morpho's global ETD business, including, but not limited to, all patents, licenses and sublicenses, intellectual property (including the ionization process technology, the high-volume particle vapor sampling technology, and the mass spectrometry technology), copyrights, trademarks and trade names (excluding trademarks and trade names related to the words "Morpho" or "Morpho Detection"), service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints,

designs, design protocols, customization and design of new algorithms, engineering specifications, specifications for materials, specifications for parts and components, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information defendants provide to their own employees, customers, suppliers, agents or licensees, and all research data relating to Morpho's global ETD business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments.

H. "Transaction" means Smiths' proposed acquisition of Morpho's explosive detection systems and ETD device businesses.

III. APPLICABILITY

A. This Final Judgment applies to Smiths, Safran, and Morpho, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURE

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible

purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privileges or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the development, engineering, production, distribution, sale, or servicing of Morpho ETD devices to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the development, engineering, production, distribution, sale, or servicing of Morpho ETD devices.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of Morpho's global ETD business; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. For the defendants' employees who elect employment by the Acquirer, defendants shall waive all non-compete agreements and all non-disclosure agreements, vest all unvested pension and other equity rights, and provide all benefits to which the defendants' employees would generally be provided if transferred to a buyer of an ongoing business. For a period of twelve (12) months after the Acquirer has hired the defendants' employees, the defendants shall not solicit to hire, or hire any employee hired by the Acquirer, unless (1) such individual is terminated or laid off by the Acquirer, or (2) the Acquirer agrees in writing that defendants may solicit or hire that individual.

F. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

H. At the option of the Acquirer, defendants shall enter into a transition services agreement with the Acquirer sufficient to meet the Acquirer's needs for assistance in matters relating to the development, engineering, production, distribution, sale, or servicing of Morpho ETD devices. The Acquirer may exercise this option for a period no longer than twelve (12) months following completion of the divestiture required by this Final Judgment.

I. Defendants shall warrant to the Acquirer that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. By no later than thirty (30) days after the date the Transaction is closed, Smiths shall remove all of the PhotoMate-related and Quadrupole-related employees and equipment located at the Santa Ana facility.

K. By no later than thirty (30) days after the Transaction is closed, Smiths shall remove all of the Source ID-related and Raman Spectroscopy-related employees and equipment located at the Andover facility.

L. At the option of Smiths, the Acquirer shall enter into an agreement to provide Smiths with a non-exclusive, worldwide, royalty-free, non-transferable, irrevocable license for the intangible assets described in Paragraph II(G)(3), that, prior to the filing of the Complaint in this matter, were related to the development, engineering, production, distribution, sale and/or service of ETD devices (*i.e.*, the ionization process technology, the high-volume particle vapor sampling technology, and the mass spectrometry technology); provided, however, that any license for ionization process technology and mass spectrometry technology may not be used in connection with the development, engineering, production, distribution, sale and/or service of ETD devices. Such licenses will not be subject to any requirement to grant back to the defendants any improvement or modifications made to these assets.

M. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets

can and will be used by the Acquirer as part of a viable, ongoing business in the development, engineering, production, distribution, sale, and servicing of Desktop ETD devices. The divestiture, whether pursuant to Section IV or V of this Final Judgment:

(1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the development, engineering, production, distribution, sale, and servicing of Desktop ETD devices; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If defendants have not divested the Divestiture Assets within the time period specified in Paragraph IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, and V of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States

and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section V.

D. The Divestiture Trustee shall serve at the cost and expense of defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and defendants are unable to reach agreement on the Divestiture Trustee's or any agent's or consultant's compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the

Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contains information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture

required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or V shall not be consummated. Upon objection by defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. HOLD SEPARATE

Until the divestiture required by this Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this

Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally

recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) Access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. NOTIFICATION

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"), during the term of this Final Judgment, Smiths, without providing advance notification to the Antitrust Division, shall not directly or indirectly acquire any assets of or any interest, including, but not limited to, any financial, security, loan, equity, or management interest, in any entity engaged in the development, engineering, production, distribution, sales, and servicing of Desktop ETD devices in the United States; provided that notification pursuant to this Section shall not be required where the purchase price of the assets or interest being acquired is less than \$30 million.

B. Such notification shall be provided to the Antitrust Division in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about desktop ETD devices thereof described in Section IV of the Complaint filed in this matter. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the thirty-day period after notification, representatives of the Antitrust Division make a written request for additional information, Smiths shall not consummate the proposed transaction or agreement until thirty (30) calendar days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date:

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

United States District Judge

United States District Court for the District of Columbia

United States of America, Plaintiff, v. Smiths Group PLC, Safran S.A., Morpho Detection, LLC, Morpho Detection International, LLC, Defendants.

Case No.: 17-cv-00580

Judge: Rosemary M. Collyer

Filed: 03/30/2017

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On April 20, 2016, defendants Smiths Group plc ("Smiths"), Safran S.A. ("Safran"), Morpho Detection, LLC and Morpho Detection International, LLC ("Morpho") entered into an agreement, pursuant to which Smiths intends to

acquire Morpho's global explosive detection business from Safran. The value of the transaction is approximately \$710 million.

The United States filed a civil antitrust Complaint on March 30, 2017, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of the acquisition would be to lessen competition substantially for the development, engineering, production, distribution, sales, and servicing of desktop explosive trace detection ("ETD") devices sold for passenger air travel or air cargo transport in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. This loss of competition likely would give Smiths the ability and incentive to raise prices, decrease the quality of service, and lessen innovation for customers in the United States.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required to divest Morpho's global ETD business. These assets collectively are referred to as the "Divestiture Assets." Under the terms of the Hold Separate Stipulation and Order, defendants will take certain steps to ensure that the Divestiture Assets are operated as a competitive, independent, economically viable, and ongoing business concern, that the Divestiture Assets will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Transaction

Smiths is a London-based corporation with a U.S. subsidiary, Smiths Detection U.S., Inc. ("Smiths Detection"), headquartered in Edgewood, Maryland. Smiths is a globally diversified technology company that provides

products for the healthcare, energy and petrochemicals, threat and contraband detection, and telecommunications industries. Smiths Detection develops, engineers, produces, distributes, sells, and services a wide range of threat and contraband detection technologies, including x-ray, explosive trace detection ("ETD"), and infra-red spectroscopy used at airports, ports and borders, and in critical infrastructure worldwide. In 2015, Smiths' worldwide revenues were approximately \$4.5 billion. Smiths Detection's worldwide revenues were approximately \$730 million and its U.S. revenues were approximately \$225.7 million.

Morpho Detection, LLC, based in Newark, California, and Morpho Detection International, LLC, based in Irving, Texas, (collectively "Morpho") are subsidiaries of Safran, a Paris-based \$17.3 billion aerospace and defense company. Morpho develops, engineers, produces, distributes, sells, and services two categories of threat detection devices, explosive detection systems and ETD devices, which are used at airports, air cargo facilities, and other high-risk critical infrastructure sites worldwide. In 2015, Morpho's worldwide revenues were approximately \$325 million and its U.S. revenues were approximately \$262 million.

Pursuant to an agreement dated April 20, 2016, Smiths intends to purchase Morpho's explosive detection system and ETD device businesses for approximately \$710 million.

B. Explosive Detection Industry Overview

Equipment designed to detect and identify explosives is used across a broad spectrum of government agencies and private companies for security screening. This equipment includes desktop ETD devices used at passenger checkpoints or air cargo facilities throughout the United States. ETD devices may be stationary ("desktop" ETDs) or mobile ("handheld" ETDs). Desktop ETD devices are a secondary screening method employed after an alert is made by a primary screening device, such as an X-ray scanner or an explosive detection system. Desktop ETD devices detect trace amounts of explosive residue or other contraband on hands, belongings, and cargo from a tiny sample swabbed from the object and placed inside the detector.

Desktop ETD devices used at airport checkpoints and air cargo facilities need an external power source and a controlled environment, but are considered more reliable and accurate than handheld ETD devices, and are

capable of greater throughput. Generally, an ETD device's operational performance is evaluated on sensitivity, selectivity or identification, and speed.

U.S. customers require desktop ETD vendors to have a local service network, with a ready supply of consumables and components. A local service presence allows vendors to provide training to new employees who operate their devices and provide timely repair and maintenance. Likewise, desktop ETDs require regular service, maintenance, and a ready supply of consumables, so having a local service presence enables vendors to respond expeditiously when a device requires attention, and reduces downtime that can slow the pace of passenger and baggage screening at airports and other critical facilities.

C. Desktop ETD Device Industry Regulation

The Transportation Security Administration ("TSA") mandates separate security performance screening standards for passenger air travel and for air cargo transport. Desktop ETD devices that meet the TSA threat certification standards are listed either on: (a) The Qualified Product List ("QPL") for desktop ETD devices purchased by the TSA for checkpoint screening of passengers, carry-on bags and hold baggage at airports; and/or (b) the Air Cargo Screening Technology List ("ACSTL"), for desktop ETD devices purchased by air cargo companies for screening of air cargo. In addition, desktop ETD devices purchased by the TSA for passenger air travel include customized software that is exclusively available to the TSA.

U.S. sales of desktop ETD devices to the TSA for passenger air travel depend upon a small number of large, infrequent TSA procurements, which typically arise when the TSA updates its certification standards to meet emerging threats. Annual sales of desktop ETD devices used for passenger air travel in the United States averaged about \$13 million over the last six years. Sales to air cargo companies follow a similar pattern, with large procurements occurring infrequently as air cargo carriers respond to evolving threats and new technology. Annual sales of desktop ETD devices used to screen air cargo averaged approximately \$5.5 million over the last six years.

QPL qualification is a multi-step process that can take up to two years. Labs under the direction of the Department of Homeland Security test devices to ensure the necessary threats are detected. The TSA then conducts operational testing on-site at airports to confirm that its performance standards

are met. If a desktop ETD device makes it through these steps, it will be qualified and placed on the QPL. The ACSTL qualification process generally is the same as the qualification process for the QPL, but the mandated threat detection standards differ in order to account for a wider range of air cargo packaging material.

When the TSA opens a solicitation for desktop ETD devices, only vendors with desktop ETD devices on the QPL can participate. The TSA is currently conducting an expedited evaluation of desktop ETD devices to be qualified for inclusion on the QPL, in anticipation of an upcoming procurement likely in the second half of 2017. The TSA does not publish the QPL, but does issue a press release when a contract is awarded, which includes the name of the vendor and its desktop ETD device.

The ACSTL qualification process generally is the same as the qualification process for the QPL, but the mandated threat detection standards differ in order to account for a wider range of air cargo packaging material. The current ACSTL threat detection standard expires within the next two years. The TSA has begun testing and qualifying new desktop ETD devices to meet a new threat detection standard. Grandfathered devices may still be used by air cargo carriers until the expiration date, but any new purchases of such devices require a TSA waiver.

D. Relevant Markets Affected by the Proposed Acquisition

Defendants compete in the development, production, engineering, distribution, sales, and servicing of desktop ETD devices for passenger air travel and air cargo transport in the United States. The Complaint alleges that each of these desktop ETD device applications is a relevant product market in which competitive effects can be assessed. The different applications are recognized in the desktop ETD device industry as separate product lines; they have unique customers with different technical and service requirements. Competition would be reduced from three-to-two for the sale of desktop ETD devices in these highly concentrated markets in the United States as a result of the proposed acquisition. For purchasers of desktop ETD devices for passenger air travel and air cargo transport in the United States, Smiths and Morpho are two of only three suppliers.

1. Desktop ETD Devices for Passenger Air Travel in the United States

The Complaint alleges likely harm in the market for desktop ETD devices for

passenger air travel in the United States. The TSA may purchase only desktop ETD devices that are listed on the QPL, and QPL qualification requires that devices meet specific criteria and successfully complete rigorous testing. As these devices are purchased exclusively by the TSA and may not be sold outside of the United States, the relevant geographic market is the United States.

A hypothetical profit-maximizing monopolist of desktop ETD devices sold for passenger air travel in the United States likely would impose a small but significant non-transitory increase in price ("SSNIP") that would not be defeated by substitution away from desktop ETD devices with QPL certification or by the TSA purchasing desktop ETD devices outside the United States. Accordingly, the development, engineering, production, distribution, sale, and servicing of desktop ETD devices sold for passenger air travel in the United States is a relevant market within the meaning of Section 7 of the Clayton Act.

2. Desktop ETD Devices for Air Cargo Transport in the United States

The Complaint also alleges likely harm in the market for desktop ETD devices for air cargo transport in the United States. Air cargo transport companies operating in the United States require that desktop ETD devices meet certain performance standards, which typically include ACSTL qualification by the TSA. Desktop ETD devices on the ACSTL also must undergo significant testing to ensure they meet and deliver the required technical standards and performance. As these devices are purchased for use at airports located in the United States, and because their sale involves a significant service component, the relevant geographic market is the United States.

A hypothetical profit-maximizing monopolist of desktop ETD devices sold for air cargo transport in the United States likely would impose a SSNIP that would not be defeated by substitution away from desktop ETD devices in the relevant market or by air cargo companies purchasing the desktop ETD devices outside the United States. Accordingly, the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for air cargo transport in the United States is a relevant market within the meaning of Section 7 of the Clayton Act.

E. Anticompetitive Effects of the Proposed Transaction

Smiths' acquisition of Morpho would eliminate head-to-head competition between these two firms in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for passenger air travel and air cargo transport in the United States. For their most significant customers, Smiths and Morpho are two of only three suppliers which historically have qualified to provide desktop ETD devices and related services for these two applications in the United States.

1. Desktop ETD Devices for Passenger Air Travel in the United States

The TSA historically has relied on three suppliers qualified to meet its QPL standards for desktop ETD devices for passenger air travel. Smiths and Morpho are two of those three suppliers that have competed on price and other terms of sale. Such competition has led to lower prices, better service and more innovative products for the TSA.

In particular, Morpho has a history of bidding aggressively for contracts to supply and service desktop ETD devices in this market. By underbidding its rivals, Morpho delivered to the TSA a lower-priced option while also incentivizing competitors to respond with more competitive prices and terms of sale. Absent the merger, Morpho was expected to continue to be an aggressive competitor. As a result, the proposed acquisition would give Smiths the ability and the incentive to raise prices and decrease the quality of its service.

The TSA is expected to issue a new solicitation to supply desktop ETD devices in the second half of 2017. Smiths and Morpho likely will continue to be two of only three competitors qualified to bid for this significant supply contract. Again, the acquisition would reduce from three-to-two the number of suppliers for the TSA's upcoming procurement, likely leading to higher prices and less advantageous terms for that agency.

Additionally, Smiths and Morpho each have sizable and active research and development operations and teams of engineers and technical staff working on desktop ETD devices for the passenger air travel market. Each firm has provided the other with the incentive to improve current products and develop new desktop ETD devices. A merged Smiths and Morpho would eliminate that competition depriving customers of more innovative future products and services.

Without the required divestiture of assets, Smiths' acquisition of Morpho's

desktop ETD devices for passenger air travel would have eliminated an aggressive competitor in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices. Thus, the elimination of Morpho likely would result in significant harm from higher prices, decreased innovation, and poorer quality of service in violation of Section 7 of the Clayton Act.

2. Desktop ETD Devices for Air Cargo Transport in the United States

Smiths' acquisition of Morpho also would eliminate head-to-head competition between these two firms in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices for the air cargo transport market in the United States. Smiths and Morpho are two of only three suppliers that are listed on the ACSTL and thus, can provide desktop ETD devices and a local service network.

As in the passenger air travel market, Morpho has a history of bidding aggressively for contracts to supply and service desktop ETD devices in the air cargo transport market, which is likely to result in lower bids from Morpho and its rivals once new ACSTL solicitation is announced in the next two years. The proposed acquisition would, therefore, give Smiths the ability and the incentive to raise prices and decrease the quality of its service for air cargo transport customers.

The sizable research and development operations, engineers, and technical staff of Smiths and Morpho, respectively, which work on desktop ETD devices for the passenger air travel market, also work to improve current and develop new desktop ETD devices for the air cargo transport market. Each firm has provided the other with the incentive to improve current products and develop new desktop ETD devices for the air cargo transport market. A merged Smiths and Morpho would eliminate that incentive, potentially depriving customers of more innovative future products and services.

The proposed transaction, therefore, likely would substantially lessen competition in the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the air cargo transport market in the United States, leading to higher prices, decreased innovation, and poorer quality of service in violation of Section 7 of the Clayton Act.

F. Difficulty of Entry

Given the substantial time and particular technology and software

required to develop and qualify a desktop ETD device to be listed on the QPL or the ACSTL, timely and sufficient entry into either the passenger air travel market or the air cargo transport market is unlikely to mitigate the harmful effects of the proposed transaction caused by the elimination of Morpho as an independent supplier.

1. Desktop ETD Devices for Passenger Air Travel in the United States

Firms attempting to enter into the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the passenger air travel market face substantial entry barriers in terms of time and technology. The TSA process for qualification of a new desktop ETD device normally takes from 12 to 24 months. Testing includes multiple steps, each of which must be passed to proceed: (1) submission and corresponding review of a data package; (2) two rounds of functional testing of the unit in a controlled environment; and (3) operational testing of the unit on-site at an airport. As a result of these barriers, entry would not be timely, likely, or sufficient to defeat a price increase arising from the substantial lessening of competition that likely would result from Smiths' acquisition of Morpho.

2. Desktop ETD Devices for Air Cargo Transport in the United States

Firms attempting to enter into the development, engineering, production, distribution, sale, and servicing of desktop ETD devices in the air cargo transport market likewise face substantial entry barriers in terms of time and technology. Air cargo companies typically require desktop ETD device providers to meet ACSTL standards, which demand an investment of time and money similar to that required under the TSA's QPL-testing process. Setting up a local network of service and training personnel and equipment is likewise a cost- and time-intensive endeavor. As a result of these barriers, entry would not be timely, likely, or sufficient to defeat a price increase arising from the substantial lessening of competition from Smiths' acquisition of Morpho.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition by establishing a new, independent, and economically viable competitor in the development, engineering, production, distribution, sale, and servicing of desktop ETD

devices. Paragraph II(G) of the proposed Final Judgment defines the Divestiture Assets to include Morpho's global ETD business, including leases or subleases to Morpho's R&D, manufacturing, sales, and service facility located at Andover, Massachusetts; its R&D facility at Santa Ana, California; its three sales and service depots located at Cambridge, England, Mississauga, Canada, and Sydney, Australia. The Divestiture Assets include all tangible assets used in connection with Morpho's global ETD business, including, but not limited to, all research and development assets; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including service contracts, service subcontracts, and supply agreements or contracts; all customer lists, customer records, contracts, accounts, and credit records; all repair and performance records and all other records.

The Divestiture Assets also include all intangible assets used in connection with Morpho's global ETD business, including, but not limited to, all patents, licenses and sublicenses, intellectual property (including the ionization process technology, the high-volume particle vapor sampling technology, and the mass spectrometry technology), copyrights, trademarks and trade names (excluding trademarks and trade names related to the words "Morpho" or "Morpho Detection"),¹ service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, customization and design of new algorithms, engineering specifications, specifications for materials, specifications for parts and components, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical

information defendants provide to their own employees, customers, suppliers, agents or licensees, and all research data relating to Morpho's global ETD business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments.

Paragraph IV(A) requires Smiths, within ninety (90) days after the filing of the Complaint, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest the Divestiture Assets as a viable ongoing business. The Divestiture Assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

Pursuant to Paragraph IV(H), the Acquirer has the option to enter into a transition services agreement with Smiths sufficient to meet the Acquirer's need for assistance in matters relating to the Divestiture Assets. The Acquirer may exercise this option for a period no longer than twelve (12) months following completion of the divestiture required by the Final Judgment.

The facilities located in Santa Ana, California and Andover, Massachusetts each currently contain assets that are unrelated to desktop ETD devices. Accordingly, pursuant to Paragraphs IV(J) and IV(K), Smiths is required to remove the non-desktop ETD device assets from these facilities no later than thirty (30) days after the date the Transaction is closed.

In accordance with Paragraph IV(L), at Smiths' option, the Acquirer shall enter into an agreement to provide Smiths with a non-exclusive, worldwide, royalty-free, non-transferable, irrevocable license for the intangible assets described in Paragraph II(G)(3) of the Final Judgment, that, prior to the filing of the Complaint in this matter, were being developed to be used in connection with ETD devices (i.e., the ionization process technology, the high-volume particle vapor sampling technology, and the mass spectrometry technology); provided, however, that any license for ionization and mass spectrometry technology may not be used in connection with the development, engineering, production, distribution, sale and/or service of ETD devices. Such licenses will not be subject to any requirement to grant back

to the defendants any improvement or modifications made to these assets.

Pursuant to Paragraph IV(M), final approval of the sale of the Divestiture Assets, including the identity of the Acquirer, is left to the sole discretion of the United States to ensure the continued independence and viability of the Divestiture Assets to compete in the relevant markets.

According to Section V, in the event that Smiths does not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court will appoint a Divestiture Trustee selected by the United States to effect the divestiture. If a Divestiture Trustee is appointed, the proposed Final Judgment provides that Smiths will pay all costs and expenses of the trustee. The Divestiture Trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After its appointment becomes effective, the Divestiture Trustee will file monthly reports with the Court and the United States setting forth its efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the Divestiture Trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

Section XI of the proposed Final Judgment requires Smiths to provide notification to the Antitrust Division of certain proposed acquisitions not otherwise subject to filing under the Hart-Scott Rodino Act, 15 U.S.C. 18a (the "HSR Act"), and in the same format as, and per the instructions relating to the notification required under that statute. The notification requirement applies in the case of any direct or indirect acquisitions of any assets of or interest in any entity engaged in the development, engineering, production, distribution, sales, and servicing of desktop ETD devices in the United States; provided that notification pursuant to this Section shall not be required where the purchase price of the assets or interests being acquired is less than \$30 million. Section XI further provides for waiting periods and opportunities for the United States to obtain additional information similar to the provisions of the HSR Act before such acquisitions can be consummated. The United States believes that Smiths may have an interest in acquiring other desktop ETD companies that have not

¹ Morpho's parent, Safran, carved out from the sale of Morpho the "Morpho" and "Morpho Detection" trademarks and trade names, because Safran is the primary user of those trademarks and names. Safran also uses them for products and businesses other than ETD devices. Customers widely recognize Morpho's ETD devices by product and model names rather than by the company name, so excluding the Morpho and Morpho Detection trade names and trademarks will not adversely impact the viability or competitive significance of the Divestiture Assets as an ongoing business.

yet qualified for either the QPL or ACSTL but which may attempt to qualify for the QPL or ASCTL in the future. Because some of these firms may not be large enough to trigger HSR reporting requirements, we are requiring this notification provision.

The Divestiture Assets are not limited only to desktop ETD devices but rather include Morpho's global ETD business, which includes desktop, handheld, and portal ETD products. These products share many commonalities, including intellectual property, research and development, patented technology, production processes, components, distribution, sales, and service support. Partitioning such closely related lines of business would be impractical and endanger the viability and competitiveness of an entity that consists solely of the desktop ETD business. The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the provision of desktop ETD devices used in the relevant markets by preserving the Divestiture Assets as an independent and vigorous competitor to Smiths.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to

comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's Internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Maribeth Petrizzi
Chief, Litigation II Section
Antitrust Division
United States Department of Justice
450 Fifth Street NW.,
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. The United States could have litigated and sought preliminary and permanent injunctions against Smiths' acquisition of Morpho. The United States is satisfied, however, that the divestiture of Morpho's global ETD business described in the proposed Final Judgment will preserve competition for the development, production, engineering, distribution, sales, and servicing of desktop ETD devices in the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-

day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.*, No. 13-cv-1236 (CKK), 2014-1 Trade Cas. (CCH) ¶ 78, 748, 2014 U.S. Dist. LEXIS 57801, at *7 (D.D.C. Apr. 25, 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.*, No. 08-1965 (JR), 2009-2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.").

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship

² The 2004 amendments substituted "shall" for "may" in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not “engage in an unrestricted evaluation of what relief would best serve the public.” *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is “within the reaches of the public interest.” More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).³ In determining whether a proposed settlement is in the public interest, a district court “must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.” *SBC Commc'ns*, 489 F. Supp. 2d at 17; see also *U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *16 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be “deferential to the government's predictions as to the effect of the proposed remedies”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect

³ Cf. *BNS*, 858 F.2d at 464 (holding that the court's “ultimate authority under the [APPA] is limited to approving or disapproving the consent decree”); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to “look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass”). See generally *Microsoft*, 56 F.3d at 1461 (discussing whether “the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest’”).

of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is ‘within the reaches of public interest.’” *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *8 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft*, 56 F.3d at 1461); *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *9 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable; *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“the ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). Because the “court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making

the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2); see also *U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *9 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc'ns*, 489 F. Supp. 2d at 11.⁴ A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways*, 2014 U.S. Dist. LEXIS 57801, at *9.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: March 30, 2017

Respectfully submitted,

⁴ See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the “Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone”); *United States v. Mid-Am. Dairymen, Inc.*, No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (“Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93–298, at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

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 United States Department of Justice
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 Washington, DC 20530
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[FR Doc. 2017-07099 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121-NEW]

Bureau of Justice Statistics; Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Census of Tribal Law Enforcement Agencies (CTLEA)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 9, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Steven W. Perry, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: Steven.W.Perry@usdoj.gov; telephone: 202-307-0777).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

- including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* Census of Tribal Law Enforcement Agencies (CTLEA).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable form number(s) for this collection is CTLEA-17 and CTLEA-17BIA. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* This information collection is a census of approximately 300 tribal law enforcement agencies and Bureau of Indian Affairs (BIA) police agencies operating in Indian country and serving tribal lands. The Tribal Law and Order Act of 2010 (TLOA) directed BJS to improve its Indian country statistical data collections at the federal, state, local and tribal levels. This project helps fulfill this mandate and meet the agencies mission.

Abstract: Tribal law enforcement agencies share concurrent jurisdiction for all criminal matters among tribal members occurring on tribal lands and, often, act as the first responders for serious felony crimes committed in Indian country, until the appropriate federal and state law enforcement official arrive upon the scene. Tribal law enforcement agencies are authorized and operated by tribes to enforce tribal laws, statutes and codes. BIA police agencies are operated by the Department of Interior, serving on specified reservation or enforcing laws for a group of smaller tribes in close proximity to one another. Currently there about 30 BIA police departments. Similar to many Federal, state and local law enforcement agencies, tribal and BIA officers have to meet certain qualifications or complete required certification or training to be police

officers. They are responsible for ensuring the public safety on reservations, trust land and tribal communities. They face the threats of danger responding to the public's call for help, often covering vast geographic regions with limited resources. However, although the combined number tribal and BIA law enforcement agencies has increased to about 300 in recent decades, unlike their Federal, State and local counterparts, there has been only limited studies on law enforcement in Indian country and no comprehensive regularly recurring statistical collection that focuses on all tribal and BIA law enforcement agencies operating in the U.S.

The CTLEA will capture the administrative and operational characteristics of the law enforcement agencies. A goal of the CTLEA is to obtain national statistics on tribal and BIA law enforcement agency staffing and services; operating budgets and sources of funding; work activities including calls for service, arrests and citations issued; training, equipment and types of transportation; coordination and collaboration with Federal, State and local agencies; and technology use and access to regional and national criminal justice databases. In addition, this survey will collect data on matters related to human trafficking, domestic violence, and juvenile offending. These data will allow BJS to establish baselines for possible trend analyses and comparisons with future iteration of the CTLEA. The information gathered in the CTLEA-17 and CTLEA-17BIA will ask questions about 2017 agency characteristics and 2016 crime statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 tribal law enforcement agencies—including tribal operated police departments (224), conservation/wildlife enforcement agencies (43), tribal university or college police (6) and BIA agencies (27)—that serve or work on tribal lands will take part in the CTLEA. Based on the pilot testing, an average of 45 minutes per respondent is needed to complete the CTLEA-17 form and 30 minutes per respondent is needed to complete the CTLEA-17BIA form. The following factors were considered when determining the final questionnaire content and the reasonably acceptable burden estimate for the first CTLEA: The total number of eligible tribal law enforcement agencies, the ability of offices to access or gather the requested data, and the capacity for their case management systems to generate the

required information balanced against the current paucity of accurate and regularly available data about tribal law enforcement agencies operated by tribes or the BIA. BJS anticipates that nearly all of the approximately 300 respondents will fully complete the questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated public burden associated with this collection is 230 hours. It is estimated that respondents will take 30 to 45 minutes to complete a questionnaire depending on the version and an additional 15 minutes is needed for potential post data collection verification or validation of responses for about 15% of the respondents. The burden hours for CTLEA respondent data collection sum to 229 hours ((273 TLEA respondents × 45 min.) + (27 BIA respondents × 30 min.) + (45 verification respondents × 15 min.))/60 min. = 230 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: April 5, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-07077 Filed 4-7-17; 8:45 am]

BILLING CODE 4410-18-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Written comments on this notice must be received by May 10, 2017 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

Comments: 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 will have practical utility; (b) the accuracy of the agency's estimate of burden including

the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Additional Information or Comments: Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Copies of the submission(s) may be obtained by calling 703-292-7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

It is not permissible for NSF to conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between

NSF and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

NSF received no comments in response to the 60-day notice published in the **Federal Register** of October 10, 2016 (81 FR 72619).

Below we provide the NSF's projected average estimates for the next three years:

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 30.

Respondents: Up to 1,000 per activity.

Annual Responses: 30,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30.

Burden Hours: 20,000.

Dated: April 5, 2017.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017-07093 Filed 4-7-17; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2017-0001]

Sunshine Act Meeting**DATE:** Weeks of April 3, 10, 17, 24, May 1, 8, 15, 2017.**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.**STATUS:** Public and Closed.**Week of April 3, 2017***Thursday, April 6, 2017*

4:00 p.m. Affirmation Session (Public Meeting) (Tentative).

Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station), Request for Hearing on Request for Extension of Time to Comply with EA-13-109 (Tentative)

Week of April 10, 2017

There are no meetings scheduled for the week of April 10, 2017.

Week of April 17, 2017—Tentative

There are no meetings scheduled for the week of April 17, 2017.

Week of April 24, 2017—Tentative*Wednesday, April 26, 2017*

9:00 a.m. Briefing on the Status of Subsequent License Renewal Preparations (Public Meeting); (Contact: Steven Bloom: 301-415-2431).

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.*Thursday, April 27, 2017*

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Douglas Bollock: 301-415-6609).

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.**Week of May 1, 2017—Tentative**

There are no meetings scheduled for the week of May 1, 2017.

Week of May 8, 2017—Tentative*Tuesday, May 9, 2017*

10:00 a.m. Briefing on Security Issues (Closed Ex. 1).

2:00 p.m. Briefing on Security Issues (Closed Ex. 1).

Thursday, May 11, 2017

9:00 a.m. Briefing on Risk-Informed Regulation (Public Meeting); (Contact: Steve Ruffin: 301-415-1985).

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.**Week of May 15, 2017—Tentative**

There are no meetings scheduled for the week of May 15, 2017.

ADDITIONAL INFORMATION By a vote of 3–0 on April 6, 2017, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting was held on April 6, 2017

* * * * *

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: April 6, 2017.

Denise L. McGovern,
Policy Coordinator, Office of the Secretary.
[FR Doc. 2017-07291 Filed 4-6-17; 4:15 pm]**BILLING CODE 7590-01-P****NUCLEAR REGULATORY COMMISSION****[Docket No. 72-1050; NRC-2016-0231]****In the Matter of Waste Control Specialists LLC; Consolidated Interim Storage Facility; Correction****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Correction.**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on April 4, 2017, regarding the issuance of an order to Waste Control Specialists, LLC. This action is necessary to correct the ACTION statement and to add the NRC Docket ID to the notice title and the ADDRESSES section.**DATES:** The correction is effective April 10, 2017.**ADDRESSES:** Please refer to Docket ID NRC-2016-0231 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0231. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov.

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

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

SUPPLEMENTARY INFORMATION: In the FR on April 4, 2017, in FR Doc. 2017-06575, on page 16435, in the first column, in the notice title after agency name correct "[Docket No. 72-1050]" to read "[Docket No. 72-1050; NRC-2016-0231]" and in the first sentence under the ADDRESSES section correct "Docket ID 72-1050" to read "Docket ID NRC-2016-0231." On the same page in the ACTION section correct "Confirmatory order; issuance" to read "Order; issuance."

Dated at Rockville, Maryland, this 4th day of April 2017.

For the Nuclear Regulatory Commission.

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

[FR Doc. 2017-07050 Filed 4-7-17; 8:45 am]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and purpose of information collection: Continuing Disability Report; OMB 3220-0187. Under Section 2 of the Railroad Retirement Act, an annuity is not payable or is reduced for any month in which the annuitant works for a railroad or earns more than prescribed dollar amounts from either non-railroad employment or self-employment. Certain types of work may indicate an annuitant's recovery from disability. The provisions relating to the reduction or non-payment of an annuity by reason

of work, and an annuitant's recovery from disability for work, are prescribed in 20 CFR 220.17-220.20. The RRB conducts continuing disability reviews (CDR) to determine whether an annuitant continues to meet the disability requirements of the law. Provisions relating to when and how often the RRB conducts CDR's are prescribed in 20 CFR 220.186.

Form G-254, *Continuing Disability Report*, is used by the RRB to develop information for a CDR determination, including a determination prompted by a report of work, return to railroad service, allegation of medical improvement, or a routine disability review call-up. Form G-254a, *Continuing Disability Update Report*, is used to help identify a disability annuitant whose work activity and/or recent medical history warrants completion of Form G-254 for a more extensive review.

Completion is required to retain a benefit. One response is requested of each respondent to Forms G-254 and G-254a.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (82 FR 8961 on February 1, 2017) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Continuing Disability Report.
OMB Control Number: 3220-0187.
Forms Submitted: G-254 and G-254a.
Type of Request: Revision of a currently approved collection.
Affected Public: Individuals or Households.
Abstract: Under the Railroad Retirement Act, a disability annuity can be reduced or not paid, depending on the amount of earnings and type of work performed. The collection obtains

information about a disabled annuitant's employment and earnings.

Changes proposed: The RRB proposes the following changes:

Significant changes are proposed to Form G-254 in support of the RRB's Disability Program Improvement Project (DPIP) to enhance/improve disability case processing and overall program integrity as recommended by the RRB's Office of Inspector General and the Government Accountability Office. Proposed revisions/additions include:

- Providing, in Item 31a, more descriptive labels (Easy, Difficult, Hard, Not at All, and N.A.) to help identify the applicant's ability to perform an activity.
- Requesting information on four new activity items (Sitting, Standing, Reading, and Writing), to be consistent with other RRB disability forms.
- New Item 31b, which requests the applicant to provide additional information about their daily activities.
- Requesting, in Item 31d, when a disability annuitant uses an assistive device (wheelchair, cane, etc.).
- Minor, non-burden impacting editorial and formatting changes.

The RRB also proposes the addition of new Form RL-8A, *Occupational Disability Certification*, which the RRB will use to annually monitor occupational disability annuitants who meet certain criteria. The form will require that the annuitant certify that they are still disabled in order to continue receiving their occupational disability annuities. Form RL-8 will be used to transmit the Form RL-8A. The Paperwork Reduction Act and Privacy Act Notices are on Form RL-8A.

The RRB proposes no changes to Form G-254a.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-254	1,500	5-35	623
G-254A	1,500	5	125
RL-8A	400	15	100
Total	3,400	.....	848

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751-4981 or Dana.Hickman@RRB.GOV.

Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-1275 or Brian.Foster@rrb.gov and

to the OMB Desk Officer for the RRB, Fax: 202-395-6974, Email address: OIRA_Submission@omb.eop.gov.

For the Board,
Martha P. Rico,
Secretary to the Board.
 [FR Doc. 2017-07068 Filed 4-7-17; 8:45 am]

BILLING CODE 7905-01-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement

Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Financial Disclosure Statement; OMB 3220-0127.

Under Section 10 of the Railroad Retirement Act and Section 2(d) of the Railroad Unemployment Insurance Act, the RRB may recover overpayments of annuities, pensions, death benefits, unemployment benefits, and sickness benefits that were made erroneously. An overpayment may be waived if the beneficiary was not at fault in causing the overpayment and recovery would cause financial hardship. The regulations for the recovery and waiver of erroneous payments are contained in 20 CFR 255 and CFR 340.

The RRB utilizes Form DR-423, Financial Disclosure Statement, to

obtain information about the overpaid beneficiary's income, debts, and expenses if that person indicates that (s)he cannot make restitution for the overpayment. The information is used to determine if the overpayment should be waived as wholly or partially uncollectible. If waiver is denied, the information is used to determine the size and frequency of installment payments. The beneficiary is made aware of the overpayment by letter and is offered a variety of methods for recovery. One response is requested of each respondent. Completion is voluntary. However, failure to provide the requested information may result in a denial of the waiver request. The RRB proposes no changes to Form DR-423.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
DR-423	1,200	85	1,700

2. Title and purpose of information collection: Representative Payee Parental Custody Monitoring; OMB 3220-0176.

Under Section 12(a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other

person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment to the beneficiary or payment to a representative payee would best serve the beneficiary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor

the payee to assure that the beneficiary's interests are protected. The RRB utilizes Form G-99D, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent. The RRB proposes no changes to Form G-99D.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-99d	800	5	67
Total	800	.....	67

3. Title and purpose of information collection: Statement Regarding Contributions and Support of Children; OMB 3220-0195.

Section 2(d)(4) of the Railroad Retirement Act (RRA), provides, in part, that a child is deemed dependent if the conditions set forth in Section 202(d)(3), (4) and (9) of the Social Security Act are met. Section 202(d)(4) of the Social Security Act, as amended by Public Law 104-121, requires as a condition of dependency, that a child receives one-half of his or her support from the stepparent. This dependency impacts upon the entitlement of a spouse or survivor of an employee whose

entitlement is based upon having a stepchild of the employee in care, or on an individual seeking a child's annuity as a stepchild of an employee. Therefore, depending on the employee for at least one-half support is a condition affecting eligibility for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren, step-grandchildren and equitably adopted children. The regulations outlining child support and dependency

requirements are prescribed in 20 CFR 222.50-57.

In order to correctly determine if an applicant is entitled to a child's annuity based on actual dependency, the RRB uses Form G-139, Statement Regarding Contributions and Support of Children, to obtain financial information needed to make a comparison between the amount of support received from the railroad employee and the amount received from other sources. Completion is required to obtain a benefit. One response is required of each respondent. The RRB proposes no changes to Form G-139.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-139	500	60	500

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751-4981 or Dana.Hickman@RRB.GOV. Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-1275 or emailed to Brian.Foster@rrb.gov. Written comments should be received within 60 days of this notice.

For the Board.

Martha P. Rico,
Secretary to the Board.

[FR Doc. 2017-07067 Filed 4-7-17; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80378; File No. S7-03-14]

Order Granting a Temporary Exemption to Covered Clearing Agencies From Compliance With Rule 17Ad-22(e)(3)(ii) and Certain Requirements in Rules 17Ad-22(e)(15)(i) and (ii) Under the Securities Exchange Act of 1934

April 5, 2017.

I. Introduction

On September 28, 2016, the Securities and Exchange Commission (“Commission”) adopted amendments to Rule 17Ad-22 pursuant to Section 17A of the Securities Exchange Act of 1934 (“Exchange Act”) and Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.¹ Among other things, the amendments added new Rule 17Ad-22(e), which establishes an enhanced regulatory framework for registered clearing agencies that meet the definition of a covered clearing agency.² The

amendments to Rule 17Ad-22 became effective on December 12, 2016, and covered clearing agencies must be in compliance with the amendments by April 11, 2017.³ For the reasons discussed below, the Commission is using its authority under Section 17A(b)(1) of the Exchange Act to grant covered clearing agencies a temporary exemption from compliance with Rule 17Ad-22(e)(3)(ii) and certain requirements in Rules 17Ad-22(e)(15)(i) and (ii) until December 31, 2017.

II. Background

Rule 17Ad-22(e) generally requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to address, among other things, its governance arrangements and risk management framework.⁴ Rule 17Ad-22(e)(3) requires a covered clearing agency to establish, implement, maintain and enforce policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, and which, among other things, includes plans for recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other

(“Clearing Supervision Act”). See 17 CFR 240.17Ad-22(a)(5).

In addition, Rule 17Ad-22(a)(6) defines “designated clearing agency” to mean a clearing agency registered with the Commission under Section 17A of the Exchange Act that is designated systemically important by the Financial Stability Oversight Council pursuant to the Clearing Supervision Act and for which the Commission is the supervisory agency as defined in Section 803(8) of the Clearing Supervision Act. Rule 17Ad-22(a)(4) defines “clearing agency involved in activities with a more complex risk profile” to mean a clearing agency registered with the Commission under Section 17A of the Exchange Act that: (i) Provides central counterparty (“CCP”) services for security-based swaps; (ii) has been determined by the Commission to be involved in activities with a more complex risk profile at the time of its initial registration; or (iii) is subsequently determined by the Commission to be involved in activities with a more complex risk profile pursuant to Rule 17Ab-2(b) under the Exchange Act. See 17 CFR 240.17Ad-22(a)(4), (6).

³ See CCA Standards Adopting Release at 70848.

⁴ See *id.* at 70792.

losses.⁵ In adopting Rule 17Ad-22(e)(3)(ii), the Commission stated its belief that recovery and wind-down plans, and material changes thereto, would constitute a proposed rule change under Section 19(b) of the Exchange Act and, for designated clearing agencies, an advance notice under the Clearing Supervision Act, subjecting them to Commission review and public comment.⁶

In addition, Rule 17Ad-22(e)(15) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage the covered clearing agency’s general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the covered clearing agency can continue operations and services as a going concern if those losses materialize, including, among other things, by (i) determining the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken and (ii) holding liquid net assets funded by equity equal to the greater of either (x) six months of its current operating expenses or (y) the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the recovery and wind-down plans established under Rule 17Ad-22(e)(3)(ii).⁷

III. Discussion

A. Background and Exemptive Request

As noted in the CCA Standards Adopting Release, the Commission believes that, taken together, the policies and procedures requirements related to recovery and wind-down plans in Rules 17Ad-22(e)(3)(ii) and (15) should help ensure that a covered clearing agency is able to remain resilient in times of market stress and to sustain its operations for sufficient time to achieve orderly wind-down if such

⁵ 17 CFR 240.17Ad-22(e)(3)(ii).

⁶ See CCA Standards Adopting Release at 70809.

⁷ 17 CFR 240.17Ad-22(e)(15)(i), (ii).

¹ See Exchange Act Release No. 34-78961 (Sept. 28, 2016), 81 FR 70786 (Oct. 13, 2016) (“CCA Standards Adopting Release”).

² Under Rule 17Ad-22(a)(5), “covered clearing agency” means (i) a designated clearing agency or (ii) a clearing agency involved in activities with a more complex risk profile for which the Commodity Futures Trading Commission is not the supervisory agency as defined in Section 803(8) of the Payment, Clearing, and Settlement Supervision Act of 2010

action is necessary.⁸ Unlike some other aspects of Rule 17Ad–22(e), until now recovery and wind-down plans have not been part of the Commission’s regulatory framework for registered clearing agencies.⁹

Since the adoption of Rule 17Ad–22(e), Commission staff has been aware of the ongoing development of recovery and wind-down plans by covered clearing agencies in anticipation of the April 11, 2017 compliance date. Nevertheless, the development of recovery and wind-down plans continues to present novel and complex questions, and one entity, on behalf of its three subsidiaries that are covered clearing agencies, has requested that the Commission provide a temporary exemption from compliance until December 31, 2017 so that the clearing agencies can finalize their recovery and wind-down plans.¹⁰ The entity states its view that recovery and wind-down plans are an important new input into industry efforts to manage systemic risk that must be carefully designed to address concerns unique to each covered clearing agency and its members.¹¹ The entity asserts that the topic of recovery and wind-down remains under active discussion in the industry, that a substantial amount of work remains to be completed, and that it would be prudent to provide for a longer period of time for consultation concerning the relevant documents and filings under the Rule 19b–4 and advance notice processes related to recovery and wind-down plans.¹² The entity believes, in particular, that covered clearing agencies, their members, and other interested persons would benefit from further thought development concerning whether and how the plans should address the continued provision of critical operations and services in the event that recovery tools fail. The entity

emphasizes that additional time is necessary because of the complexity of the planning process, the need for further discussion and consultation, and the advisability of conducting appropriate member outreach prior to the submission of formal filings under the Rule 19b–4 and advance notice processes.¹³

B. Exemptive Relief

Section 17A(b)(1) of the Exchange Act provides that the Commission, by order and upon its own motion, may conditionally or unconditionally exempt any clearing agency or class of clearing agencies from any provisions of Section 17A or the rules and regulations thereunder if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of Section 17A, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.¹⁴

Recognizing that the reasons stated by the entity may apply to covered clearing agencies generally, the Commission believes that all covered clearing agencies would benefit from additional time to finalize the development of their recovery and wind-down plans. As noted above, unlike some other aspects of Rule 17Ad–22(e), recovery and wind-down plans continue to present novel and complex questions. The recovery and wind-down plans described in Rule 17Ad–22(e)(3)(ii) are new requirements not previously included in the Commission’s regulatory framework for clearing agencies, and the topics of recovery and wind-down remain under active discussion in the industry. The Commission believes that providing additional time to develop recovery and wind-down plans will facilitate further discussion, consultation, and member outreach by the covered clearing agencies that could help resolve the novel and complex questions presented. This in turn would help promote the development of plans that comprehensively address how a covered clearing agency could continue to provide critical operations and services in the event that recovery tools fail and that are consistent with the policies and procedures requirements of Rule 17Ad–22(e)(3)(ii). Therefore, the Commission finds that a temporary exemption from compliance with Rule 17Ad–22(e)(3)(ii) until December 31, 2017 is consistent with the public interest, the protection of investors, and the purposes of Section 17A of the Exchange Act.

In addition, compliance with certain aspects of Rule 17Ad–22(e)(15) depends in part on a covered clearing agency having established recovery and wind-down plans under Rule 17Ad–22(e)(3)(ii). Specifically, these include the following: (i) The requirement in Rule 17Ad–22(e)(15)(i) for policies and procedures for determining the amount of liquid net assets funded by equity based upon the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken (“RWP clause”); and (ii) clause (y) of Rule 17Ad–22(e)(15)(ii) requiring policies and procedures for holding liquid net assets funded by equity equal to the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the plans established under Rule 17Ad–22(e)(3)(ii). The Commission therefore finds that a temporary exemption from compliance with these subsections of Rule 17Ad–22(e)(15) until December 31, 2017 is consistent with the public interest, the protection of investors, and the purposes of Section 17A of the Exchange Act.

The Commission is not granting relief from the April 11, 2017 compliance date for any other provision of the amendments to Rule 17Ad–22. In particular, the Commission notes that the temporary exemption from compliance does not apply to either of the following: (i) The requirement in Rule 17Ad–22(e)(15)(i) for policies and procedures for determining the amount of liquid net assets funded by equity based upon its general business risk profile; or (ii) clause (x) of Rule 17Ad–22(e)(15)(ii) requiring policies and procedures for holding liquid net assets funded by equity equal to six months of the covered clearing agency’s current operating expenses. Accordingly, as of the April 11, 2017 compliance date for the amendments to Rule 17Ad–22, a covered clearing agency is required to have policies and procedures for determining the amount of liquid net assets funded by equity based upon its general business risk profile pursuant to Rule 17Ad–22(e)(15)(i) and for holding liquid net assets funded by equity equal to six months of the covered clearing agency’s current operating expenses pursuant to clause (x) of Rule 17Ad–22(e)(15)(ii), regardless of whether the covered clearing agency has met the condition for obtaining relief under this temporary exemption.

As a condition to obtaining relief under the temporary exemption, a

⁸ See CCA Standards Adopting Release at 70868, 70876.

⁹ As discussed in CCA Standards Adopting Release, certain requirements in Rule 17Ad–22(e) contain requirements substantially similar to those in Rule 17Ad–22(d) or reflect current practices at registered clearing agencies. Certain other requirements in Rule 17Ad–22(e) contain provisions that are similar to those in Rule 17Ad–22(d) but would also impose additional requirements not found in Rule 17Ad–22(d). A few requirements have no comparable requirement under Rule 17Ad–22(d) and therefore may require more extensive changes to policies and procedures or other additional steps to achieve compliance. See *id.* at 70891.

¹⁰ See letter from Michael C. Bodson, President and Chief Executive Officer, The Depository Trust & Clearing Corporation, Feb. 15, 2017, <https://www.sec.gov/comments/s7-03-14/s70314-1594398-132354.pdf>.

¹¹ See *id.* at 1.

¹² See *id.* at 2.

¹³ See *id.*

¹⁴ 15 U.S.C. 78q–1(b)(1).

covered clearing agency must notify the Commission in writing of its intent to rely upon the temporary exemption no later than April 11, 2017.

IV. Conclusion

The Commission hereby grants, pursuant to Section 17A(b)(1) of the Exchange Act, covered clearing agencies a temporary exemption from compliance with Rule 17Ad-22(e)(3)(ii), the RWP clause of Rule 17Ad-22(e)(15)(i), and clause (y) of Rule 17Ad-22(e)(15)(ii) until December 31, 2017, subject to the condition contained in this order.

By the Commission.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-07101 Filed 4-7-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80375; File No. SR-NYSEMKT-2017-16]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rule 36—Equities To Permit Exchange Floor Brokers To Use Non-Exchange Provided Telephones on the Floor

April 4, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on March 22, 2017, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 36—Equities to permit Exchange Floor brokers to use non-Exchange provided telephones on the Floor and make related changes modeled on the rules governing telephone use on the Exchange’s options trading floor and on the options trading floor of its affiliate NYSE Arca, Inc. The proposed rule change is available on the Exchange’s

Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 36—Equities (Communication Between Exchange and Members’ Offices) (“Rule 36”) to permit Exchange Floor brokers to use non-Exchange provided telephones on the Floor (the “Floor”)⁴ and make related changes modeled on the rules governing telephone use on the Exchange’s options trading floor and on the options trading floor of its affiliate NYSE Arca, Inc. (“NYSE Arca”).

Background

Overview of Rule 36 Requirements

Rule 36 governs the establishment of telephone or electronic communications between the Floor and any other location, which requires Exchange approval. Supplementary Material .20, .21 and .23 to Rule 36 outline the conditions under which Floor brokers are permitted to use Exchange authorized and provided portable telephones with the approval of the Exchange. The Exchange adopted these provisions of Rule 36 in 2008 when it was acquired by NYSE Euronext.⁵

Pursuant to Rule 36.20(a), with Exchange approval, Floor brokers may

maintain a telephone line or use Exchange authorized and provided portable phones, which permit a non-member off the Floor to communicate with a member or member organization on the Floor. Subject to the exception contained in Rule 36.23, discussed below, Rule 36.20(a) expressly prohibits the use of a portable telephone on the Floor other than one authorized and issued by the Exchange.⁶

The use of Exchange authorized and issued portable phones is governed by Rule 36.21, which provides that when using an Exchange authorized and provided portable phone, a Floor broker:

(i) May engage in direct voice communications from the point of sale on the Floor to an off-Floor location;

(ii) may provide status and oral execution reports as to orders previously received, as well as “market look” observations as historically have been routinely transmitted from a broker’s booth location;

(iii) must comply with Exchange Rule 123(e)—Equities;

(iv) must comply with all other rules, policies, and procedures of both the Exchange and the federal securities law, including the record retention requirements, as set forth in Exchange Rule 440—Equities and SEC Rules 17a-3 and 17a-4;⁷ and

(v) may not use call-forwarding or conference calling. Exchange authorized and provided portable phones used by Floor brokers shall not have these capabilities.

Rule 36.21(b) further provides that Floor brokers and their member organizations must implement procedures designed to deter anyone calling their portable phones from using caller ID block or other means to conceal the phone number from which a call is being made. Members and member organizations are required to make and retain records demonstrating compliance with such procedures.

Rule 36.21(c) provides that Floor brokers may not use an Exchange authorized and issued portable phone used to trade equities while on the NYSE Amex Options Trading Floor.

Rule 36.23 provides that, notwithstanding any other provision of Rule 36, members and employees of member organizations may use personal portable communications devices outside the Trading Floor⁸ consistent

⁴ Rule 6—Equities defines the Floor as the trading Floor of the Exchange and the premises immediately adjacent thereto, such as the various entrances and lobbies of the 11 Wall Street, 18 New Street, 8 Broad Street, 12 Broad Street and 18 Broad Street Buildings, and also means the telephone facilities available in these locations.

⁵ See Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR-Amex-2008-63). The Exchange’s Rule 36 was modeled on the New York Stock Exchange LLC’s (the “NYSE”) version of Rule 36. See *id.*, 73 FR at 58996 & n.24.

⁶ The last sentence of Rule 36.20(a) provides that the Exchange will approve the maintenance of telephone lines only at the booth location of a member or member organization.

⁷ See 17 CFR 240.17a-3; 17 CFR 240.17a-4.

⁸ Rule 6A—Equities defines the Trading Floor as the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the Main Room and the Buttonwood Room but does not include the areas in the Buttonwood Room designated by the Exchange for the trading of its listed options securities, which, for the purposes of the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

with Exchange Rules and the federal securities laws and the rules thereunder, and are prohibited from using personal portable or wireless communications devices while on the NYSE Amex Options Trading Floor.⁹ The Rule further provides that those members and employees of member organizations that are also registered to trade options on NYSE Amex are permitted to use personal portable or wireless communication devices while on the NYSE Amex Options Trading Floor in accordance with applicable Exchange options rules and regulations, including Rules 220 and 902NY.

Rules Governing Telephones on the NYSE Amex Options and NYSE Arca Options Trading Floors

The Exchange operates NYSE Amex Options, a physical options trading floor in New York, and the Exchange's affiliate NYSE Arca operates a physical options trading floor in San Francisco. NYSE MKT Rule 902NY (Admission and Conduct on the Options Trading Floor), governing phone use on the NYSE Amex Options Trading Floor, was adopted in 2009 and modeled on NYSE Arca Rule 6.2(h) (Admission to and Conduct on the Options Trading Floor).¹⁰ Both exchanges allow Floor-based permit holders and their employees to use personal phones on the options trading floors subject to the same types of restrictions proposed for the Exchange. Neither NYSE MKT nor NYSE Arca provides exchange-issued and approved telephones for use on the options trading floors.

Specifically, NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) require permit holders to register, prior to use, any new telephones to be used on the options trading floor by sending a registered email to the Operations Department, which includes the number of the telephone being registered.¹¹ Similarly,

both rules require trading permit holder representatives to attest at the time of registration that they are aware of and understand the rules governing the use of telephones on the options trading floor. NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) provide that no trading permit holder or employee thereof may employ any alternative communication device (other than telephones as described herein) on the trading floor without prior approval of the respective exchange.¹²

Exchange's Trading Facilities, defined in Rule 900.2NY(81) as, among places, the Exchange's facilities for the trading of options 11 Wall Street, New York, NY). An ATP Holder must be registered as a broker or dealer. Similarly, on the NYSE Arca options market, permit holders are OTP Holders or OTP Firms, which are defined in NYSE Arca Rules 1.1(q) and (r), respectively.

¹² The Exchange does not propose to include the requirements of Rule 902NY(i)(2) (Functionality) and NYSE Arca Rule 6.2(h)(2) (Functionality) or Rule 902NY(i)(3) (Requirements and Conditions) and NYSE Arca Rule 6.2(h)(3) (Requirements and Conditions) in its Rule 36.

Rule 902NY(i)(2) and NYSE Arca Rule 6.2(h)(2) prohibit maintenance of an open line of continuous communication whereby a person not located in the trading crowd may continuously monitor the activities in the trading crowd, and covers intercoms, walkie-talkies and any similar devices. Similarly, Rule 902NY(i)(3)(A) and NYSE Arca Rule 6.2(h)(3)(A) provide that only quotations that have been publicly disseminated may be provided over telephones in trading areas. In today's largely automated trading environment on the Exchange, where pricing decisions have moved away from market participants on the Trading Floor and there is greater availability to all market participants of real-time trade and quote information, importing these requirements into Rule 36 would serve no purpose. The traditional trading "crowd" at the DMM post has virtually disappeared, and along with it much of the informational imbalance that existed prior to the implementation of Regulation NMS. The Exchange also believes that these requirements would be incompatible with current Rule 36, which explicitly permits Floor brokers to engage in direct voice communication from the point of sale on the Floor to an off-Floor location and, more importantly, provide status and oral execution reports as to orders previously received, as well as "market look" observations as historically have been routinely transmitted from a broker's booth location.

Further, Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B) require telephone orders to be entered directly to the trading zone (NYSE MKT) or trading post (NYSE Arca) only during outgoing telephone calls that are initiated from the trading crowd (NYSE MKT) or option posts (NYSE Arca), and that all such orders be immediately recorded in the Electronic Order Capture System (EOC). For the same reasons noted above, the Exchange believes that importing these requirements into Rule 36 would serve no purpose. Moreover, comparable Exchange system entry requirements to those in Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B) are set forth in Rule 123(e)—Equities.

Rule 902NY(i)(3)(C) and NYSE Arca Rule 6.2(h)(3)(C) provide that the relevant exchange may require the taping of any telephone line into the trading zone (NYSE MKT) or trading post (NYSE Arca) or may require permit holders to provide for the tape recording of a dedicated line in the trading zone or trading post at any time. Rule 902NY(i)(3)(C) and NYSE Arca Rule 6.2(h)(3)(C), however, relates to the taping of land lines, not cellular or wireless phones. Accordingly, the

Further, NYSE MKT Rule 902NY(i)(4)(A) and NYSE Arca Rule 6.2(h)(4)(A) provide that permit holders and employees of permit holders may use their own cellular and wireless phones to place calls to any person at any location (whether on or off the trading floor). Neither exchange prohibits or restricts the use of conference call or call forwarding features by permit holders and their employees when using personal cellular and wireless phones on the trading floor.

NYSE MKT Rule 902NY(i)(5) and NYSE Arca Rule 6.2(h)(5) also provide that permit holders must maintain records of the use of telephones and all other approved alternative communication devices, including logs of calls placed, for a period of not less than three years, the first two years in an accessible place. Both exchanges reserve the right to inspect such records pursuant to NYSE MKT Rule 31 and NYSE Arca Rule 10.2, respectively.

NYSE MKT Rule 902NY(i)(6) and NYSE Arca Rule 6.2(h)(6) provide that each exchange may deny, limit or revoke the registration of any telephone used on the trading floor whenever it determines that use of such device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device has been or is being used to facilitate any violation of the Act, as amended, or rules thereunder, or the rules of the respective exchange.

Finally, NYSE MKT Rule 902NY(i)(7) and NYSE Arca Rule 6.2(h)(7) provide that the respective exchanges assume no liability to permit holders due to conflicts between phones in use on the options trading floor or due to electronic interference problems resulting from the use of telephones on the trading floor.

Exchange does not propose to include this requirement in Rule 36.

Finally, the Exchange does not propose to include the requirements found in Rule 902NY(i)(4)(B) and (C) and NYSE Arca Rule 6.2(h)(4)(B) and (C) in its Rule 36. Rule 902NY(i)(4)(B) and NYSE Arca Rule 6.2(h)(4)(B) provide that Floor brokers and permit holders may receive orders over their phones subject to the provisions of Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B), respectively, and that telephonic orders entered from off the Trading Floor must be placed with a person located in an ATP Holder booth. Similarly, Rule 902NY(i)(4)(C) and NYSE Arca Rule 6.2(h)(4)(C) provide that Floor brokers receiving orders from a permit holder representative on the Trading Floor may immediately represent that order in the trading crowd provided that such orders are immediately recorded in EOC. As noted, current Rule 36 already contemplates that Floor brokers can accept orders via telephone consistent with NYSE MKT rules, including the requirement in NYSE MKT Rule 123(e)—Equities to first record order details in an electronic system on the Floor before representing or executing the order.

Exchange's Equities Rules is referred to as the "NYSE Amex Options Trading Floor," or the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor.

⁹ Rule 6A(b)—Equities defines "NYSE Amex Options Trading Floor" as the areas in the "Buttonwood Room" designated by the Exchange where NYSE Amex-listed options are traded. See note 8, *supra*.

¹⁰ See Securities Exchange Act Release No. 59939 (May 19, 2009), 74 FR 25779 (May 29, 2009) (SR—NYSEAmex—2009—17).

¹¹ On the NYSE Amex Options market, a permit holder is known as an "Amex Trading Permit Holder" or "ATP Holder," which is defined in Rule 900.2NY(5) as a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP. See also Rule 900.2NY(4) (defining "ATP" as a permit issued by NYSE MKT for effecting securities transactions on the

Proposed Rule Change

The Exchange proposes to amend Rule 36 to permit Floor brokers to use any cellular or wireless telephone properly registered with the Exchange on the Floor, thereby eliminating the requirement that Floor brokers only use Exchange-approved and provided portable phones. The proposed changes are based on Exchange rules and NYSE Arca rules governing the use of cellular phones on the options trading floors of those exchanges and include proposed safeguards surrounding the use of non-Exchange issued devices modeled on the rules of the Exchange and its affiliate.

To effect these changes, the Exchange proposes the following amendments to Rule 36.20(a):

- First, the requirement for prior Exchange approval to utilize cellular or wireless telephones on the Floor would remain unchanged and would be strengthened by the Exchange's proposal to add the phrase "and subject to the registration requirements set forth in Supplementary Material .21" in the first sentence of subparagraph (a).

- Second, the Exchange proposes to delete the phrase "an Exchange authorized and provided portable" before the word "telephone" in the first sentence of subparagraph (a) and replace it with the term "a cellular or wireless."¹³ The Exchange also proposes a non-substantive grammatical change to replace the word "which" with "that" before the word "permits."

- Third, the Exchange would change the reference to "portable" phones to "cellular or wireless" in the second sentence of subparagraph (a). The Exchange also proposes non-substantive changes at the end of the second sentence to replace a capital "S" with a lower case "s" in the word "See" and to delete the word "for" following the word "See" before "e.g."

- Finally, in the last sentence of subparagraph (a), the Exchange would replace the word "portable" with "cellular or wireless." The Exchange would also replace the phrase "authorized and issued by" with "registered with" before "the Exchange" and add the clause "as provided in .21 of this Rule" after "the Exchange" and before "is prohibited."

To continue to enable the Exchange to regulate and control equipment and communications on the Floor, the Exchange proposes the following amendments to Rules 36.21 and 36.23,

¹³ NYSE MKT Rule 902NY and NYSE Arca Rule 6.2(h) utilize the phrase "cellular and cordless." The Exchange proposes to instead use the more modern synonym, "wireless."

which are modeled on the options rules of the Exchange and its affiliate, which set forth the conditions under which Floor brokers would be permitted to use their own cellular or wireless telephones on the Floor.

- First, the Exchange proposes to replace "an Exchange authorized and provided portable" in the heading to Rule 36.21 with "a cellular or wireless" before "phone."

- Second, the Exchange proposes a new subparagraph (a) to Rule 36.21 requiring Floor brokers to register, prior to use, any cellular or wireless telephone proposed to be used on the Floor by submitting a request in writing to the Exchange.¹⁴ Proposed Rule 36.21(a) would further require that Floor brokers attest at the time of registration that they are aware of and understand the rules governing the use of telephones on the Floor.¹⁵ Finally, separate from the registration and use of telephones, under the proposed Rule no Floor broker may employ any alternative communication device on the Floor (other than telephones as described in the proposed rule) without prior Exchange approval. The Exchange would thus retain the authority to review and approve any alternative communication device prior to use. The requirements in proposed Rule 36.21(a) are based on the requirements specified in NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1), described above. The language of proposed Rule 36.21(a) is different than the other Exchange and NYSE Arca rules on which it is based because of the inclusion of conforming references to "Floor brokers," "cellular or wireless telephone," one reference to "devices" rather than "telephones," and the use of "Floor" rather than "Trading Floor." The proposed Rule also requires Floor brokers and not Floor broker "representatives" to attest.¹⁶

- Third, current subparagraph (a) of Rule 36.21 would become new subparagraph (b) and the Exchange would delete "an Exchange authorized

¹⁴ The Exchange does not propose to specify in the Rule that an email or other writing be sent to a specific Exchange department. Rather, the Exchange will specify where the email should be sent in regulatory guidance that the Exchange would issue following approval of this rule filing. The guidance would also specify that the registration email identify the telephone number of the phone being registered.

¹⁵ A proposed attestation is attached as Exhibit 5A. The Exchange would also issue appropriate regulatory guidance regarding the use of portable phones on the Floor prior to the effective date of this rule filing.

¹⁶ See Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) (imposing the attestation requirement on "ATP Holder representatives" and "OTP Holder and OTP Firm representatives").

and provided portable" before "phone," replace it with "a cellular or wireless," and add the phrase "on the Floor" after "phone." The Exchange would also retain current subparts (i)–(iv) and delete current subpart (v), which prohibits the use of call-forwarding or conference calling. These requirements were added to the NYSE's version of Rule 36 in 2006 and copied by the Exchange in 2008.¹⁷ As noted above, the rules of the Exchange and NYSE Arca, both of which permit non-exchange issued telephones to be used on the options trading floors, do not contain similar prohibitions on call-forwarding or conference calling.

The Exchange believes that the current prohibitions on use of call-forwarding or conference calling are no longer necessary and that it would be consistent with the Act to eliminate these prohibitions. First, the prohibition on forwarding calls prevented Floor brokers from forwarding calls placed to an Exchange-issued device to a non-Exchange issued device. Once Floor brokers are able to use non-Exchange issued telephones, the rationale for the prohibition would no longer apply. Moreover, the Exchange believes that, if this feature were used to forward calls from one registered cell phone to another registered cell phone on the Floor, both phones would independently be subject to the obligations of proposed Rule 36 and therefore subject to Exchange jurisdiction. To the extent such calls are forwarded to a telephone that is not located on the Floor, Rule 36 would not apply to a telephone that was not physically present on the Floor. With respect to the call conferencing feature, current Rule 36.21 does not restrict with whom a Floor broker may communicate when using a portable phone at the point of sale. Moreover, if this feature were used, any records of such calls would be captured pursuant to paragraph (d) of Rule 36.21 below and would be available to the Exchange upon request.

- Fourth, current subparagraph (b) would become proposed subparagraph (c).¹⁸ The Exchange would also replace

¹⁷ See Securities Exchange Act Release No. 53213 (Feb. 2, 2006), 71 FR 7103 (Feb. 10, 2006) (SR-NYSE-2005-80) & note 5, *supra*. The Exchange also proposes a non-substantive change in proposed Rule 36.21(b)(ii) to correct punctuation by replacing the single quotes around "market look" with double quotes.

¹⁸ Rule 36.21(b) provides that Floor brokers and their member organizations must implement procedures designed to deter anyone calling their portable phone from using caller ID block or other means to conceal the phone number from which a call is being made. Members and member organizations are required to make and retain

the word “portable” in proposed subparagraph (c) with “cellular or wireless.”

- Fifth, the Exchange proposes a new subparagraph (d) of Rule 36.21 providing that Floor brokers must maintain records of the use of telephones and all other approved communication devices, including logs of calls placed, for a period of not less than three years, the first two years in an accessible place, and that the Exchange reserves the right to periodically inspect such records. Proposed new subparagraph (d) is based on NYSE MKT Rule 902NY(i)(5) and NYSE Arca Rule 6.2(h)(5). Proposed Rule 36.21(d) is different than the NYSE MKT and NYSE Arca rules on which it is based because of the inclusion of conforming references to “Floor brokers.” The last sentence of the proposed Rule also provides that the Exchange reserves the right to periodically inspect records pursuant to Rule 8210, which governs provision of information and testimony and inspection and copying of books, and is analogous to Rule 31 and NYSE Arca Rule 10.2.

- Sixth, current subparagraph (c) would become proposed subparagraph (e). The Exchange would also replace the phrase “an Exchange authorized and provided portable” in proposed subparagraph (e) with “a cellular or wireless.” The Exchange would also add the phrase “registered with the Exchange and” before “used to trade equities while on the NYSE Amex Options Trading Floor.”

- Seventh, the Exchange proposes a new subparagraph (f) that provides the Exchange with the ability to deny, limit or revoke registration of any device used on the Floor whenever it determines, in accordance with the procedures set forth in Rule 9558,¹⁹ that use of such a device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device has been or is being used to facilitate any violation of the Act, as amended, the rules thereunder, or the Exchange’s rules. Proposed Rule 36.21(f) is based on Rule 902NY(i)(6). Proposed Rule 36.21(f) is different than the NYSE MKT and NYSE Arca rules on which it is based because of the inclusion of conforming references to “device” rather than “telephone” and “Floor” rather than “Trading Floor.” The proposed Rule also omits the reference to Rule 475 in Rule 902NY(i)(6) and the

records demonstrating compliance with such procedures.

¹⁹ Rule 9558 relates to summary proceedings for actions authorized by Section 6(d)(3) of the Act.

reference to NYSE Arca Rule 10.14 in NYSE Arca Rule 6.2(h)(6). Rule 475 only applies to proceedings for which a written notice has been issued by the Exchange under the Rule prior to April 15, 2016; otherwise, Rule 9558, which is referenced in the proposed Rule, applies. Rule 9558 is also the closest Exchange analogue to NYSE Arca Rule 10.14.

- Eighth, the Exchange would adopt a new subparagraph (g) providing that the Exchange assumes no liability due to conflicts between phones in use on the Floor or due to electronic interference problems resulting from the use of telephones on the Floor. Proposed Rule 36.21(g) is based on Rule 902NY(i)(7) and NYSE Arca Rule 6.2(h)(7) and, except for conforming references to “Floor brokers” and “Floor” rather than “Trading Floor,” is identical to the NYSE MKT and NYSE Arca Rules.²⁰

- Finally, the Exchange would replace three references to “personal portable” with “cellular” in current Rule 36.23. The Exchange would also add the clause “subject to .21(e) of this Rule” at the end of the last sentence in Rule 36.23.

The proposed changes to Rule 36, with the exception of current Rule 36.23, would not apply to Designated Market Makers, who would continue to be subject to Rules 36.30 and 36.31.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In particular, the Exchange believes that permitting Floor brokers to use any cellular or wireless telephone properly

²⁰ The Exchange notes that proposed Rule 36.21(f) is similar to the rules of other exchanges that seek to limit or cap liability for losses arising from the use of an exchange’s facilities, systems, or equipment. *See, e.g.*, Nasdaq Rule 4626 (Limitation of Liability); NYSE Arca Rules 2.8 (No Liability for Using Exchange Facilities) and 14.2 (Liability of Exchange); NYSE Arca Equities Rule 2.7 (No Liability for Using Trading Facilities) and 13.2 (Liability of Corporation). *See generally* NYSE MKT Rule 17—Equities (Use of Exchange Facilities and Vendor Services) and 18—Equities (Compensation in Relation to Exchange Failure).

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

registered with the Exchange on the Floor and eliminating the requirement that Floor brokers only use Exchange-approved and provided portable phones are designed to prevent fraudulent and manipulative acts and practices and would be consistent with the public interest and the protection of investors because of the numerous safeguards surrounding the use of non-Exchange issued devices also proposed for inclusion in Rule 36. The proposed safeguards would include:

- Requiring Floor brokers to register personal communication devices prior to use;

- attesting at the time of registration that they are aware of and understand the rules governing the use of telephones on the Floor;

- prohibiting employment of alternative communication devices on the Floor without prior Exchange approval;

- requiring Floor brokers to maintain records of the use of telephones and all other approved alternative communication devices, including logs of calls placed, for a period of not less than three years, the first two years in an accessible place, for inspection by the Exchange at any time; and

- empowering the Exchange to deny, limit or revoke registration of any device used on the Floor whenever it determines that use of such a device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device.

The Exchange believes that these proposed safeguards, modeled on the rules of the Exchange and its affiliate, establish an appropriate regulatory framework for supervising and monitoring use of communication devices on the Exchange’s trading Floor consistent with the objectives of Section 6(b)(5) of the Act.

The Exchange further believes that deleting the current requirement in Rule 36 prohibiting the use of call-forwarding or conference calling would be consistent with the public interest and the protection of investors because, as noted above, such requirements are not currently in place on the NYSE MKT and NYSE Arca options trading floors. As noted above, the rationale for the prohibition was aimed at preventing Floor brokers from forwarding calls to non-Exchange issued phones and would be moot if Floor brokers are only using non-Exchange issued devices. If a call is forwarded from a registered cellular or wireless phone to another registered telephone (wired or not) on the Floor, the phone that received the calls would separately be subject to the obligations

of proposed Rule 36 and therefore subject to Exchange jurisdiction. If a call is forwarded to a telephone located off of the Floor, Rule 36 would not be implicated because the person on the phone would not be physically located on the Floor. In addition, the Exchange believes that if Floor brokers use cellular or wireless telephones that include call conferencing features, any such use would be captured on the records of use of such telephones that Floor brokers would be required to maintain pursuant to proposed paragraph (d) of Rule 36.21.

The Exchange believes that including a provision in proposed Rule 36.21 providing that the Exchange assumes no liability to Floor brokers due to conflicts between phones in use on the Floor or due to electronic interference problems resulting from the use of telephones on the Floor removes impediments to and perfects the mechanism of a free and open market by adding transparency to the Exchange's rules regarding use of personal telephone equipment on Exchange premises.

The Exchange also believes that the proposed amendments to Rule 36 support the mechanism of free and open markets by continuing to provide a means for increased communication by Floor brokers to and from the Floor.

Finally, the Exchange believes that replacing the outdated word "portable" with "cellular or wireless" in Rule 36.20 and .21 and replacing "personal portable" with "cellular" in Rule 36.23 removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete and outdated references in the Exchange's rulebook. Similarly, the Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete and outdated references would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete and outdated references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on competition because the proposed change relates to how Floor brokers are permitted to communicate on the Floor and proposes no change for other market participants. In addition, the Exchange does not believe that the proposed changes will impose any competitive burden because Floor brokers will operate in the same manner but with telephone equipment that is not Exchange-issued.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEMKT-2017-16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2017-16. This file number should be included on the subject line if email is used. To help the

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2017-16, and should be submitted on or before May 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80374; File No. SR-NYSE-2017-07]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 36 To Permit Exchange Floor Brokers To Use Non-Exchange Provided Telephones on the Floor

April 4, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on March 31, 2017, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 36 to permit Exchange Floor brokers to use non-Exchange provided telephones on the Floor of the Exchange and make related changes modeled on rules of the Exchange's affiliates NYSE MKT LLC and NYSE Arca, Inc., governing telephone use on those markets' options trading floors. The proposed rule change is available on the Exchange's Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 36 (Communication Between Exchange and Members' Offices) to permit Exchange Floor brokers to use non-Exchange provided telephones on the Floor of the Exchange (the "Floor")⁴ and make related changes modeled on rules of the Exchange's affiliates, NYSE MKT LLC ("NYSE MKT") and NYSE Arca, Inc. ("NYSE Arca"), governing telephone use on those markets' options trading floors.

⁴ Rule 6 defines the Floor as the trading Floor of the Exchange and the premises immediately adjacent thereto, such as the various entrances and lobbies of the 11 Wall Street, 18 New Street, 8 Broad Street, 12 Broad Street and 18 Broad Street Buildings, and also means the telephone facilities available in these locations.

Background

Overview of Rule 36 Requirements

Rule 36 governs the establishment of telephone or electronic communications between the Floor and any other location, which requires Exchange approval. Supplementary Material .20, .21 and .23 to Rule 36 outline the conditions under which Floor brokers are permitted to use Exchange authorized and provided portable telephones with the approval of the Exchange. These provisions of Rule 36 were originally implemented as a six-month pilot in 2003,⁵ which pilots were extended and then made permanent in 2008.⁶

Pursuant to Rule 36.20(a), with Exchange approval, Floor brokers may maintain a telephone line or use Exchange authorized and provided portable phones, which permit a non-member off the Floor to communicate with a member or member organization on the Floor. Subject to the exception contained in Rule 36.23, discussed below, Rule 36.20(a) expressly prohibits the use of a portable telephone on the Floor other than one authorized and issued by the Exchange.

The use of Exchange authorized and issued portable phones is governed by Rule 36.21, which provides that when using an Exchange authorized and provided portable phone, a Floor broker:

- (i) May engage in direct voice communications from the point of sale on the Floor to an off-Floor location;
- (ii) may provide status and oral execution reports as to orders previously received, as well as "market look" observations as historically have been routinely transmitted from a broker's booth location;
- (iii) must comply with Exchange Rule 123(e);
- (iv) must comply with all other rules, policies, and procedures of both the Exchange and the federal securities law, including the record retention requirements, as set forth in Exchange Rule 440 and SEC Rules 17a-3 and 17a-4;⁷ and

(v) may not use call-forwarding or conference calling. Exchange authorized and provided portable phones used by Floor brokers shall not have these capabilities.

Rule 36.21(b) further provides that Floor brokers and their member

⁵ See Securities Exchange Act Release No. 47671 (April 11, 2003), 68 FR 19048 (April 17, 2003) (SR-NYSE-2002-11); Securities Exchange Act Release No. 47992 (June 5, 2003), 68 FR 35047 (June 11, 2003) (SR-NYSE-2003-19).

⁶ See Securities Exchange Act Release No. 58068 (June 30, 2008), 73 FR 39363 (July 9, 2008) (SR-NYSE-2008-20) ("Release No. 58068").

⁷ See 17 CFR 240.17a-3; 17 CFR 240.17a-4.

organizations must implement procedures designed to deter anyone calling their portable phones from using caller ID block or other means to conceal the phone number from which a call is being made. Members and member organizations are required to make and retain records demonstrating compliance with such procedures.

Rule 36.23 provides that, notwithstanding any other provision of Rule 36, members and employees of member organizations may use personal portable communications devices outside the Trading Floor⁸ consistent with Exchange Rules and the federal securities laws and the rules thereunder, and are prohibited from using personal portable or wireless communications devices while on the NYSE Amex Options Trading Floor.⁹ The Rule further provides that those members and employees of member organizations that are also registered to trade options on NYSE Amex are permitted to use personal portable or wireless communication devices while on the NYSE Amex Options Trading Floor¹⁰ in accordance with applicable NYSE Amex Options rules and regulations.

Rules Governing Telephones on the NYSE MKT and NYSE Arca Options Trading Floors

The Exchange's affiliates, NYSE MKT and NYSE Arca, operate physical options trading floors in New York and San Francisco, respectively.¹¹ NYSE MKT Rule 902NY (Admission and Conduct on the Options Trading Floor), governing phone use on the NYSE Amex Options Trading Floor, was adopted in 2009 and modeled on NYSE Arca Rule 6.2(h) (Admission to and Conduct on the Options Trading Floor).¹² Both exchanges allow Floor-based permit holders and their employees to use personal phones on

⁸ Rule 6A defines the Trading Floor as the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the Main Room and the Buttonwood Room but does not include the areas in the Buttonwood Room designated by the Exchange where NYSE Amex-listed options are traded, which for the purposes of the Exchange's Rules is referred to as the "NYSE Amex Options Trading Floor," or the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor.

⁹ See Rule 6A(b)(i) & notes 10-11, *infra*.

¹⁰ Rule 6A(b) defines "NYSE Amex Options Trading Floor" as the areas in the Buttonwood Room designated by the Exchange where NYSE Amex-listed options are traded. See note 8, *supra*.

¹¹ NYSE MKT operates the NYSE Amex Options Trading Floor in New York, while NYSE Arca Options operates an options trading floor in San Francisco.

¹² See Securities Exchange Act Release No. 59939 (May 19, 2009), 74 FR 25779 (May 29, 2009) (SR-NYSEAmex-2009-17).

the options trading floors subject to the same types of restrictions proposed for the Exchange. Neither NYSE MKT nor NYSE Arca provides exchange-issued and approved telephones for use on the options trading floors.

Specifically, NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) require permit holders to register, prior to use, any new telephones to be used on the options trading floor by sending a registered email to the Operations Department, which includes the number of the telephone being registered.¹³ Similarly, both rules require trading permit holder representatives to attest at the time of registration that they are aware of and understand the rules governing the use of telephones on the options trading floor. NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) provide that no trading permit holder or employee thereof may employ any alternative communication device (other than telephones as described herein) on the trading floor without prior approval of the respective exchange.¹⁴

¹³ On the NYSE Amex Options market, a permit holder is known as an "Amex Trading Permit Holder" or "ATP Holder," which is defined in NYSE MKT Rule 900.2NY(5) as a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP. See also Rule 900.2NY(4) (defining "ATP" as a permit issued by NYSE MKT for effecting securities transactions on the Exchange's Trading Facilities, defined in Rule 900.2NY(81) as, among places, NYSE MKT's facilities for the trading of options 11 Wall Street, New York, NY). An ATP Holder must be registered as a broker or dealer. Similarly, on the NYSE Arca options market, permit holders are OTP Holders or OTP Firms, which are defined in NYSE Arca Rules 1.1(q) and (r), respectively.

¹⁴ The Exchange does not propose to include the requirements of NYSE MKT Rule 902NY(i)(2) (Functionality) and NYSE Arca Rule 6.2(h)(2) (Functionality) or NYSE MKT Rule 902NY(i)(3) (Requirements and Conditions) and NYSE Arca Rule 6.2(h)(3) (Requirements and Conditions) in its Rule 36.

NYSE MKT Rule 902NY(i)(2) and NYSE Arca Rule 6.2(h)(2) prohibit maintenance of an open line of continuous communication whereby a person not located in the trading crowd may continuously monitor the activities in the trading crowd, and covers intercoms, walkie-talkies and any similar devices. Similarly, NYSE MKT Rule 902NY(i)(3)(A) and NYSE Arca Rule 6.2(h)(3)(A) provide that only quotations that have been publicly disseminated may be provided over telephones in trading areas. In today's largely automated trading environment on the Exchange, where pricing decisions have moved away from market participants on the Trading Floor and there is greater availability to all market participants of real-time trade and quote information, importing these requirements into Rule 36 would serve no purpose. The traditional trading "crowd" at the DMM post has virtually disappeared, and along with it much of the informational imbalance that existed prior to the implementation of Regulation NMS. The Exchange also believes that these requirements would be incompatible with current Rule 36, which explicitly permits Floor brokers to engage in direct voice communication from the point of sale on the Floor

Further, NYSE MKT Rule 902NY(i)(4)(A) and NYSE Arca Rule 6.2(h)(4)(A) provide that permit holders and employees of permit holders may use their own cellular and wireless phones to place calls to any person at any location (whether on or off the trading floor). Neither exchange prohibits or restricts the use of conference call or call forwarding features by permit holders and their employees when using personal cellular and wireless phones on the trading floor.

NYSE MKT Rule 902NY(i)(5) and NYSE Arca Rule 6.2(h)(5) also provide that permit holders must maintain records of the use of telephones and all other approved alternative communication devices, including logs of calls placed, for a period of not less than three years, the first two years in

to an off-Floor location and, more importantly, provide status and oral execution reports as to orders previously received, as well as "market look" observations as historically have been routinely transmitted from a broker's booth location.

Further, NYSE MKT Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B) require telephone orders to be entered directly to the trading zone (NYSE MKT) or trading post (NYSE Arca) only during outgoing telephone calls that are initiated from the trading crowd (NYSE MKT) or option posts (NYSE Arca), and that all such orders be immediately recorded in the Electronic Order Capture System (EOC). For the same reasons noted above, the Exchange believes that importing these requirements into Rule 36 would serve no purpose. Moreover, comparable Exchange system entry requirements to those in NYSE MKT Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B) are set forth in Rule 123(e).

NYSE MKT Rule 902NY(i)(3)(C) and NYSE Arca Rule 6.2(h)(3)(C) provide that the relevant exchange may require the taping of any telephone line into the trading zone (NYSE MKT) or trading post (NYSE Arca) or may require permit holders to provide for the tape recording of a dedicated line in the trading zone or trading post at any time. NYSE MKT Rule 902NY(i)(3)(C) and NYSE Arca Rule 6.2(h)(3)(C), however, relates to the taping of land lines, not cellular or wireless phones. Accordingly, the Exchange does not propose to include this requirement in Rule 36.

Finally, the Exchange does not propose to include the requirements found in NYSE MKT Rule 902NY(i)(4)(B) and (C) and NYSE Arca Rule 6.2(h)(4)(B) and (C) in its Rule 36. NYSE MKT Rule 902NY(i)(4)(B) and NYSE Arca Rule 6.2(h)(4)(B) provide that Floor brokers and permit holders may receive orders over their phones subject to the provisions of NYSE MKT Rule 902NY(i)(3)(B) and NYSE Arca Rule 6.2(h)(3)(B), respectively, and that telephonic orders entered from off the Trading Floor must be placed with a person located in an ATP Holder booth. Similarly, NYSE MKT Rule 902NY(i)(4)(C) and NYSE Arca Rule 6.2(h)(4)(C) provide that Floor brokers receiving orders from a permit holder representative on the Trading Floor may immediately represent that order in the trading crowd provided that such orders are immediately recorded in EOC. As noted, current Rule 36 already contemplates that Floor brokers can accept orders via telephone consistent with NYSE rules, including the requirement in NYSE Rule 123(e) to first record order details in an electronic system on the Floor before representing or executing the order.

an accessible place. Both exchanges reserve the right to inspect such records pursuant to NYSE MKT Rule 31 and NYSE Arca Rule 10.2, respectively.¹⁵

NYSE MKT Rule 902NY(i)(6) and NYSE Arca Rule 6.2(h)(6) provide that each exchange may deny, limit or revoke the registration of any telephone used on the trading floor whenever it determines that use of such device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device has been or is being used to facilitate any violation of the Act, as amended, or rules thereunder, or the rules of the respective exchange.

Finally, NYSE MKT Rule 902NY(i)(7) and NYSE Arca Rule 6.2(h)(7) provide that the respective exchanges assume no liability to permit holders due to conflicts between phones in use on the options trading floor or due to electronic interference problems resulting from the use of telephones on the trading floor.

Proposed Rule Change

The Exchange proposes to amend Rule 36 to permit Floor brokers to use any cellular or wireless telephone properly registered with the Exchange on the Floor, thereby eliminating the requirement that Floor brokers only use Exchange-approved and provided portable phones. The proposed changes are based on the rules of NYSE MKT and NYSE Arca governing use of cellular phones on the options trading floors of those exchanges and include proposed safeguards surrounding the use of non-Exchange issued devices modeled on the rules of those Exchange affiliates.

To effect these changes, the Exchange proposes the following amendments to Rule 36.20(a):

- First, the requirement for prior Exchange approval to utilize cellular or wireless telephones on the Floor would remain unchanged and would be strengthened by the Exchange's proposal to add the phrase "and subject to the registration requirements set forth in Supplementary Material .21" in the first sentence of subparagraph (a).

- Second, the Exchange proposes to delete the phrase "an Exchange authorized and provided portable" before the word "telephone" in the first sentence of subparagraph (a) and replace it with the term "a cellular or wireless."¹⁶ The Exchange also proposes a non-substantive grammatical

¹⁵ See NYSE MKT Rule 902NY(i)(5); NYSE Arca Rule 6.2(h)(5).

¹⁶ NYSE MKT Rule 902NY and NYSE Arca Rule 6.2(h) utilize the phrase "cellular and cordless." The Exchange proposes to instead use the more modern synonym, "wireless."

change to replace the word “which” with “that” before the word “permits.”

- Third, the Exchange would change the reference to “portable” phones to “cellular or wireless” in the second sentence of subparagraph (a). The Exchange also proposes non-substantive changes at the end of the second sentence to replace a capital “S” with a lower case “s” in the word “See” and to delete the word “for” following the word “See” before “e.g.”

- Finally, in the last sentence of subparagraph (a), the Exchange would replace the word “portable” with “cellular or wireless.” The Exchange would also replace the phrase “authorized and issued by” with “registered with” before “the Exchange” and add the clause “as provided in .21 of this Rule” after “the Exchange” and before “is prohibited.”

To continue to enable the Exchange to regulate and control equipment and communications on the Floor, the Exchange proposes the following amendments to Rules 36.21 and 36.23, which are modeled on the rules of the Exchange’s affiliates. The proposed rule changes would set forth the conditions under which Floor brokers would be permitted to use their own cellular or wireless telephones on the Floor.

- First, the Exchange proposes to replace “an Exchange authorized and provided portable” in the heading to Rule 36.21 with “a cellular or wireless” before “phone.”

- Second, the Exchange proposes a new subparagraph (a) to Rule 36.21 requiring Floor brokers to register, prior to use, any cellular or wireless telephone proposed to be used on the Floor by submitting a request in writing to the Exchange in a format acceptable to the Exchange.¹⁷ Proposed Rule 36.21(a) would further require that Floor brokers attest at the time of registration that they are aware of and understand the rules governing the use of telephones on the Floor.¹⁸ Finally,

¹⁷ The Exchange does not propose to specify in the Rule that an email or other writing be sent to a specific Exchange department. Rather, the Exchange will specify where the email should be sent in regulatory guidance that the Exchange would issue following approval of this rule filing. The guidance would also specify that the registration email identify the telephone number of the phone being registered.

¹⁸ A proposed attestation is attached as Exhibit 5A. The Exchange previously developed an acknowledgement for Floor brokers to sign providing specified terms of usage in connection with the use of Exchange authorized and issued portable phones that was filed with the Commission. See Release No. 58068, 73 FR at 39363, n. 10. The proposed attestation requirements would supersede and replace the previously filed acknowledgment form. Similarly, the Exchange filed regulatory guidance with the Commission

separate from the registration and use of telephones, under the proposed Rule, no Floor broker may employ any alternative communication device on the Floor (other than telephones as described in the proposed rule) without prior Exchange approval. The Exchange would thus retain the authority to review and approve any alternative communication device prior to use. The requirements in proposed Rule 36.21(a) are based on the requirements specified in NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1), described above. The language of proposed Rule 36.21(a) is different than the NYSE MKT and NYSE Arca rules on which it is based because of the inclusion of conforming references to “Floor brokers,” “cellular or wireless telephone,” one reference to “devices” rather than “telephones,” and the use of “Floor” rather than “Trading Floor.” The proposed Rule also requires Floor brokers and not Floor broker “representatives” to attest.¹⁹

- Third, current subparagraph (a) of Rule 36.21 would become new subparagraph (b) and the Exchange would delete “an Exchange authorized and provided portable” before “phone,” replace it with “a cellular or wireless,” and add the phrase “on the Floor” after “phone.” The Exchange would also retain current subparts (i)–(iv) and delete current subpart (v), which prohibits the use of call-forwarding or conference calling. These requirements were added to Rule 36 in 2006.²⁰ As noted above, the rules of NYSE MKT and NYSE Arca, both of which permit non-exchange issued telephones to be used on the options trading floors, do not contain similar prohibitions on call-forwarding or conference calling. The Exchange believes that the current prohibitions on use of call-forwarding or conference calling are no longer necessary and that it would be consistent with the Act to eliminate these prohibitions. First, the prohibition on forwarding calls prevented Floor brokers from forwarding calls placed to an Exchange-issued device to a non-Exchange issued device. Once Floor brokers are able to use non-Exchange

regarding the use of portable phones on the Floor. See *id.*; Member Education Bulletins 2005–20 (November 28, 2005) and 2005–23 (December 2, 2005). This filing would supersede that guidance, and the Exchange would issue appropriate regulatory guidance prior to the effective date of this rule filing.

¹⁹ See NYSE MKT Rule 902NY(i)(1) and NYSE Arca Rule 6.2(h)(1) (imposing the attestation requirement on “ATP Holder representatives” and “OTP Holder and OTP Firm representatives”).

²⁰ See Securities Exchange Act Release No. 53213 (Feb. 2, 2006), 71 FR 7103 (Feb. 10, 2006) (SR–NYSE–2005–80).

issued telephones, the rationale for the prohibition would no longer apply. Moreover, the Exchange believes that, if this feature were used to forward calls from one registered cell phone to another registered cell phone on the Floor, both phones would independently be subject to the obligations of proposed Rule 36 and therefore subject to Exchange jurisdiction. To the extent such calls are forwarded to a telephone that is not located on the Floor, Rule 36 would not apply to a telephone that was not physically present on the Floor. With respect to the call conferencing feature, current Rule 36.21 does not restrict with whom a Floor broker may communicate when using a portable phone at the point of sale. Moreover, if this feature were used, any records of such calls would be captured pursuant to paragraph (d) of Rule 36.21 below and would be available to the Exchange upon request.

- Fourth, current subparagraph (b) would become proposed subparagraph (c).²¹ The Exchange would also replace the word “portable” in proposed subparagraph (c) with “cellular or wireless.”

- Fifth, the Exchange proposes a new subparagraph (d) of Rule 36.21 providing that Floor brokers must maintain records of the use of telephones and all other approved communication devices, including logs of calls placed, for a period of not less than three years, the first two years in an accessible place, and that the Exchange reserves the right to periodically inspect such records. Proposed new subparagraph (d) is based on NYSE MKT Rule 902NY(i)(5) and NYSE Arca Rule 6.2(h)(5). Proposed Rule 36.21(d) is different than the NYSE MKT and NYSE Arca rules on which it is based because of the inclusion of conforming references to “Floor brokers.” The last sentence of the proposed Rule also provides that the Exchange reserves the right to periodically inspect records pursuant to Rule 8210, which governs provision of information and testimony and inspection and copying of books, and is analogous to NYSE MKT Rule 31 and NYSE Arca Rule 10.2.

- Sixth, the Exchange proposes a new subparagraph (e) that provides the

²¹ Rule 36.21(b) provides that Floor brokers and their member organizations must implement procedures designed to deter anyone calling their portable phone from using caller ID block or other means to conceal the phone number from which a call is being made. Members and member organizations are required to make and retain records demonstrating compliance with such procedures.

Exchange with the ability to deny, limit or revoke registration of any device used on the Floor whenever it determines, in accordance with the procedures set forth in Rule 9558,²² that use of such a device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device has been or is being used to facilitate any violation of the Act, as amended, the rules thereunder, or the Exchange's rules. Proposed Rule 36.21(e) is based on NYSE MKT Rule 902NY(i)(6) and NYSE Arca Rule 6.2(h)(6). Proposed Rule 36.21(e) is different than the NYSE MKT and NYSE Arca rules on which it is based because of the inclusion of conforming references to "device" rather than "telephone" and "Floor" rather than "Trading Floor." The proposed Rule also omits the reference to Rule 475 in NYSE MKT Rule 902NY(i)(6) and the reference to NYSE Arca Rule 10.14 in NYSE Arca Rule 6.2(h)(6). NYSE Rule 475 has been superseded by NYSE Rule 9558, which is referenced in the proposed Rule. Rule 9558 is also the closest Exchange analogue to NYSE Arca Rule 10.14.

- Seventh, the Exchange would adopt a new subparagraph (f) providing that the Exchange assumes no liability to Floor brokers due to conflicts between phones in use on the Floor or due to electronic interference problems resulting from the use of telephones on the Floor. Proposed Rule 36.21(f) is based on NYSE MKT Rule 902NY(i)(7) and NYSE Arca Rule 6.2(h)(7) and, except for conforming references to "Floor brokers" and "Floor" rather than "Trading Floor," is identical to the NYSE MKT and NYSE Arca Rules.²³

- Finally, the Exchange would replace three references to "personal portable" with "cellular" in current Rule 36.23.

The proposed changes to Rule 36, with the exception of current Rule 36.23, would not apply to Designated Market Makers, who would continue to be subject to Rules 36.30 and 36.31.

²² Rule 9558 relates to summary proceedings for actions authorized by Section 6(d)(3) of the Act.

²³ The Exchange notes that proposed Rule 36.21(f) is similar to the rules of other exchanges that seek to limit or cap liability for losses arising from the use of an exchange's facilities, systems, or equipment. See, e.g., Nasdaq Rule 4626 (Limitation of Liability); NYSE Arca Rules 2.8 (No Liability for Using Exchange Facilities) and 14.2 (Liability of Exchange); NYSE Arca Equities Rule 2.7 (No Liability for Using Trading Facilities) and 13.2 (Liability of Corporation). See generally NYSE Rule 17 (Use of Exchange Facilities and Vendor Services) and 18 (Compensation in Relation to Exchange Failure).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

In particular, the Exchange believes that permitting Floor brokers to use any cellular or wireless telephone properly registered with the Exchange on the Floor and eliminating the requirement that Floor brokers only use Exchange-approved and provided portable phones are designed to prevent fraudulent and manipulative acts and practices and would be consistent with the public interest and the protection of investors because of the numerous safeguards surrounding the use of non-Exchange issued devices also proposed for inclusion in Rule 36. The proposed safeguards would include:

- Requiring Floor brokers to register personal communication devices prior to use;
- attesting at the time of registration that they are aware of and understand the rules governing the use of telephones on the Floor;
- prohibiting employment of alternative communication devices on the Floor without prior Exchange approval;
- requiring Floor brokers to maintain records of the use of telephones and all other approved alternative communication devices, including logs of calls placed, for a period of not less than three years, the first two years in an accessible place, for inspection by the Exchange at any time; and
- empowering the Exchange to deny, limit or revoke registration of any device used on the Floor whenever it determines that use of such a device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or such device.

The Exchange believes that these proposed safeguards, modeled on the rules of the Exchange's affiliates, establish an appropriate regulatory framework for supervising and monitoring use of communication

devices on the Exchange's trading Floor consistent with the objectives of Section 6(b)(5) of the Act.

The Exchange further believes that deleting the current requirement in Rule 36 prohibiting the use of call-forwarding or conference calling would be consistent with the public interest and the protection of investors because, as noted above, such requirements are not currently in place on the NYSE MKT and NYSE Arca options trading floors. As noted above, the rationale for the prohibition was aimed at preventing Floor brokers from forwarding calls to non-Exchange issued phones and would be moot if Floor brokers are only using non-Exchange issued devices. If a call is forwarded from a registered cellular or wireless phone to another registered telephone (wired or not) on the Floor, the phone that received the calls would separately be subject to the obligations of proposed Rule 36 and therefore subject to Exchange jurisdiction. If a call is forwarded to a telephone located off of the Floor, Rule 36 would not be implicated because the person on the phone would not be physically located on the Floor. In addition, the Exchange believes that if Floor brokers use cellular or wireless telephones that include call conferencing features, any such use would be captured on the records of use of such telephones that Floor brokers would be required to maintain pursuant to proposed paragraph (d) of Rule 36.21.

The Exchange believes that including a provision in proposed Rule 36.21 providing that the Exchange assumes no liability to Floor brokers due to conflicts between phones in use on the Floor or due to electronic interference problems resulting from the use of telephones on the Floor removes impediments to and perfects the mechanism of a free and open market by adding transparency to the Exchange's rules regarding use of personal telephone equipment on Exchange premises.

The Exchange also believes that the proposed amendments to Rule 36 support the mechanism of free and open markets by continuing to provide a means for increased communication by Floor brokers to and from the Floor.

Finally, the Exchange believes that replacing the outdated word "portable" with "cellular or wireless" in Rule 36.20 and .21 and replacing "personal portable" with "cellular" in Rule 36.23 removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete and outdated references in the Exchange's rulebook. Similarly, the Exchange further believes that the proposal

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete and outdated references would be consistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete and outdated references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on competition because the proposed change relates to how Floor brokers are permitted to communicate on the Floor and proposes no change for other market participants. In addition, the Exchange does not believe that the proposed changes will impose any competitive burden because Floor brokers will operate in the same manner but with telephone equipment that is not Exchange-issued.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2017-07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2017-07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2017-07, and should be submitted on or before May 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman,
Assistant Secretary.

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BILLING CODE 8011-01-P

²⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80372; File No. SR-OCC-2017-003]

Options Clearing Corporation Self-Regulatory Organizations; the Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning the Requirement for Clearing Members To Participate in Default Management Testing

April 4, 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 March 29, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below; Items I and II have been prepared by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)³ of the Act and Rule 19b-4(f)(6)⁴ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC codifies the requirement for Clearing Members to participate in default management testing.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ OCC's By-Laws and Rules can be found on OCC's public Web site: <http://optionsclearing.com/about/publications/bylaws.jsp>.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On September 28, 2016 the Commission adopted amendments to Rule 17Ad-22⁶ and added new Rule 17Ad-22(e)(13)⁷ pursuant to Section 17A of the Securities Exchange Act of 1934⁸ and the Payment, Clearing, and Settlement Supervision Act of 2010 ("Payment, Clearing and Settlement Supervision Act")⁹ to require that a "covered clearing agency," as defined by Rule 17Ad-22(a)(5),¹⁰ has the authority and operational capacity, among other things, to require that participants, and other stakeholders when practicable, participate in the review and testing of the covered clearing agency's default procedures (collectively, the new and amended rules are herein referred to as "CCA" rules). Specifically, Rule 17Ad-22(e)(13) requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to:

Ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring the covered clearing agency's participants and, when practicable, other stakeholders to participate in the testing and review of its default procedures, including any close-out procedure, at least annually and following material changes thereto.¹¹

OCC meets the definition of a covered clearing agency and is therefore subject to the requirements of the CCA rules, including Rule 17Ad-22(e)(13).¹²

Current Practice

As a matter of current practice, OCC already involves certain of its Clearing Members in testing of OCC's default management procedures. Article V of OCC's By-Laws sets forth OCC's initial membership requirements. Pursuant to Interpretation and Policy .02(b) of Article V, Section 1 of OCC's By-Laws, an applicant must demonstrate that it is operationally capable of, among other things, participating in applicable default management activities as

required by OCC and in accordance with applicable laws and regulations.¹³

Once an applicant becomes a Clearing Member, Chapter II of OCC's Rules also sets forth operational requirements that address default management procedure testing. In particular, OCC Rule 214(d) requires Clearing Members to maintain certain operational capabilities as a continuing obligation of participating in OCC as a Clearing Member. This includes "the ability to participate in default management activities, including auctions, as may be required by the Corporation and in accordance with applicable laws and regulations."¹⁴

As contemplated by Interpretation and Policy .02(b) of Article V, Section 1 and Rule 214(d), OCC already conducts periodic default management testing, which includes the participation of certain Clearing Members.

Proposed Rules 218(c) and (d)

To comply with certain requirements in Rule 17Ad-22(e)(13) that the Commission recently adopted as part of the CCA rules, OCC is proposing to implement Rules 218(c) and (d) to establish a requirement that Clearing Members participate periodically in testing of OCC's default procedures, including any close-out procedures. Proposed Rules 218(c) and (d) would make clear, consistent with the CCA rules, OCC's right to designate Clearing Members that are required to participate in default procedure testing and require designated Clearing Members to comply with the default procedure testing within specified timeframes.

OCC maintains a Default Management Policy ("Policy") that also addresses its default procedure testing requirements. Specifically, the Policy notes, among other things, that OCC's default management testing will occur on at least an annual basis, or more frequently if a material change is made to OCC's default management procedures or as may be deemed necessary by OCC's internal "Default Management Working Group."¹⁵ In addition, the Policy provides that certain Clearing Members would be required to participate in OCC's default management testing, consistent with proposed Rules 218(c) and (d).

Proposed Rules 218(c) and (d) would establish flexible and transparent key

factors that OCC would use to determine which Clearing Members are required to participate in default management testing. Proposed Rules 218(c) and (d) would require OCC to use the key factors to select Clearing Members that, taken as a whole, OCC determines are the minimum necessary for the maintenance of fair and orderly markets, the promotion of robust risk management, the support of stability of the broader financial system and the protection investors and the public interest. OCC's key factors in determining which Clearing Members will be selected for testing in any given testing event would include but not be limited to: (i) Suitability of business activities and anticipated impact on resources;¹⁶ (ii) historical open interest and volume in asset classes, where appropriate;¹⁷ and (iii) participation in previous tests. In adopting the CCA rules, the Commission provided guidance that clarifies that "[a] covered clearing agency may designate in its policies and procedures that certain participants, or certain categories of participants, be designated for participation in certain tests."¹⁸ OCC's key factors to determine which Clearing Members are selected for participation in a given test of a default procedure are designed to provide flexibility to OCC while also ensuring that the appropriate Clearing Members participate in tests relevant to their business activities as relevant to OCC. Any Clearing Members designated to participate in a test of OCC's default procedures would be notified in advance and provided details concerning the nature of such testing as the particular test plans are determined.

As stated above, OCC already conducts periodic default management

¹⁶ OCC's Clearing Members vary in their size, capacity, and participation in OCC's services from large, active members to smaller members that may not participate in certain services or may have less resources, personnel, or capacity to engage in default procedure testing at a given time. Consequently, OCC needs to preserve reasonable flexibility in considering the suitability of business activities and anticipated impact on resources of a Clearing Member considered for participation in a particular default management testing exercise. OCC notes, however, that this in no way abrogates a Clearing Member's obligations to maintain the minimal operational capabilities, including the ability to participate in default management activities, as required by OCC's rules. *See e.g.*, OCC Rule 214(d).

¹⁷ *See, e.g.*, OCC Rule 1104.02(d), noting that in a default scenario OCC will pre-qualify certain potential bidders in an auction based on, among other things, demonstrated activity in the products being auctioned and qualification to clear transactions in the asset class in which the Clearing Member proposes to submit bids before inviting a bidder to participate in the auction.

¹⁸ Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70830 (October 13, 2016).

⁶ 17 CFR 240.17Ad-22.

⁷ 17 CFR 240.17Ad-22(e)(13).

⁸ 15 U.S.C. 78q-1.

⁹ 12 U.S.C. 5461 *et. seq.*

¹⁰ 17 CFR 240.17Ad-22(a)(5).

¹¹ 17 CFR 240.17Ad-22(e)(13).

¹² *Id.*

¹³ *See* OCC By-Laws Article V, Section 1, Interpretation and Policy .02(b).

¹⁴ *See* OCC Rule 214(d).

¹⁵ The "Default Management Working Group" is a staff-level working group chaired by the Vice President of Default Management and composed of staff from other OCC departments involved in default management testing.

testing and includes certain Clearing Members in such testing under Rule 214(d). Accordingly, OCC believes the proposed rule would have comparatively little impact on its Clearing Members relative to OCC's existing practice. As previously noted, the proposed rule is intended to establish clear authority in accordance with Rule 17Ad-22(e)(13)¹⁹ for OCC to require Clearing Member participation in default procedure testing.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act²⁰ because the proposed change would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by expressly establishing in OCC's Rules that Clearing Members must participate in default procedure testing, which, in turn, would help to ensure that if OCC's default procedures are activated, they would function as intended. OCC believes that the proposed rule change is also consistent with Rule 17Ad-22(e)(13)²¹ because it would require Clearing Members to participate in the testing of OCC's default procedures, including any close-out procedures, which testing would occur at least annually and following any material changes to OCC's default management procedures.

OCC also believes that Clearing Members will benefit by having proposed Rules 218(c) and (d) clearly state their obligation to participate in default procedure testing if designated, as required under the CCA rules. Moreover, OCC believes that this legal framework would promote consistency with Rule 17Ad-22(e)(1)²² by ensuring that OCC has a well-founded, clear, transparent and enforceable legal basis regarding default management procedure testing.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.²³ Proposed Rules 218(c) and (d) would

expressly establish OCC's authority to require Clearing Members to participate in particular default management procedure testing exercises. However, OCC does not believe that such a requirement—which is minimally necessary for compliance with Rule 17Ad-22(e)(13)²⁴—imposes any burden on competition among Clearing Members, let alone any burden greater than necessary or appropriate in furtherance of the purposes of the Act. To begin, proposed Rules 218(c) and (d) would not impose disparate operational requirements on Clearing Members because all Clearing Members are required to have sufficient minimum capabilities to participate in OCC's default management procedure testing process. Further, the process for selecting Clearing Member participants would be designed to ensure that Clearing Members would participate in tests that are relevant to their business activities, consistent with OCC's current practice. Finally, OCC believes that the limited, periodic use of Clearing Member resources in default management testing exercises would not affect the ability of a selected Clearing Member to continue to operate its business as it otherwise would. Accordingly, OCC believes the responsibilities associated with testing participation would be equitably distributed such that no Clearing Member(s) would face any burden on competition more than is necessary or appropriate in furtherance of the purposes of the Act and that the proposed rule change is therefore consistent with the requirements of the Act applicable to clearing agencies.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act,²⁵ and Rule 19b-4(f)(6)²⁶ thereunder, the proposed rule change is filed for immediate effectiveness because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms would not become

operative for 30 days after the date of the filing, or such shorter time as the Commission may designate. Additionally, OCC provided the Commission with written notice of its 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.

OCC stated that the proposed rule change would not significantly affect the protection of investors or the public interest because, as described above, OCC already conducts periodic default management testing and includes certain Clearing Members in such testing, in accordance with Interpretation and Policy .02(b) of Article V, Section 1 of OCC's By-Laws and Rule 214(d). OCC stated further that proposed Rules 218(c) and (d) would only modify OCC's rules to clearly articulate the requirement that Clearing Members must participate periodically in testing of OCC's default management procedures. OCC believes that the proposed rule change would not impose any significant burden on competition because, as described above, OCC believes the responsibilities associated with testing participation would be nominal and infrequent and would be equitably distributed among Clearing Members by OCC using certain key factors, including but not limited to participation in previous tests.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. OCC has requested that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the proposal may become operative immediately upon filing. According to OCC, the proposed rule change does not present any novel or controversial issues. OCC stated that this proposed rule change would require Clearing Members to participate in the testing of OCC's default procedures consistent with 17Ad-22(e)(13). In its proposal, OCC stated that the proposed rule change is not intended to substantively alter OCC's default management testing procedures, but is instead intended to amend OCC's rules to clearly articulate the requirement that Clearing Members must participate in the testing of OCC's default management procedures. Therefore, the Commission designates

¹⁹ 17 CFR 240.17Ad-22(e)(13).

²⁰ 15 U.S.C. 78q-1(b)(3)(F).

²¹ 17 CFR 240.17Ad-22(e)(13).

²² 17 CFR 240.17Ad-22(e)(1).

²³ 15 U.S.C. 78q-1(b)(3)(I).

²⁴ 17 CFR 240.17Ad-22(e)(13).

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(6).

the proposed rule change to be operative upon filing.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.²⁸

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-OCC-2017-003 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-OCC-2017-003. 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 OCC and on OCC's Web site at http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_003.pdf

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2017-003 and should be submitted on or before May 1, 2017.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80369; File No. SR-NASDAQ-2017-033]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade the Shares of the First Trust California Municipal High Income ETF

April 4, 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 March 24, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the First Trust California Municipal High Income ETF (the "Fund") of First Trust Exchange-Traded Fund III (the "Trust") under Nasdaq Rule 5735 ("Managed Fund Shares").³ The shares of the Fund are

collectively referred to herein as the "Shares."

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares⁴ on the Exchange. The Fund will

13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ-2008-039). The Exchange notes that the Commission has previously issued orders with respect to the First Trust Municipal High Income ETF, Securities Exchange Act Release No. 78913 (September 23, 2016), 81 FR 69109 (October 5, 2016) (SR-NASDAQ-2016-002); and First Trust Managed Municipal ETF, Securities Exchange Act Release No. 71913 (April 9, 2014), 79 FR 21333 (April 15, 2014) (SR-NASDAQ-2014-019). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders. In addition, the Exchange notes that the Commission has approved listing and trading of certain index-based ETFs that invest in municipal securities. *See, e.g.*, Securities Exchange Act Release Nos. 75376 (July 7, 2015), 80 FR 40113 (July 13, 2015) (SR-NYSEArca-2015-18) (order approving listing and trading of Vanguard Tax-Exempt Bond Index Fund); 71232 (January 3, 2014), 79 FR 1662 (January 9, 2014) (SR-NYSEArca-2013-118) (order approving listing and trading of Market Vectors Short High-Yield Municipal Index ETF); and 63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR-NYSEArca-2010-120) (order approving listing and trading of SPDR Nuveen S&P High Yield Municipal Bond ETF).

⁴ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide

²⁷ 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).

²⁸ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation § 40.6.

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June

be an actively-managed exchange-traded fund (“ETF”). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on January 9, 2008.⁵ The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A (“Registration Statement”) with the Commission.⁶ The Fund will be a series of the Trust. The Fund intends to qualify each year as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.

First Trust Advisors L.P. will be the investment adviser (“Adviser”) to the Fund. First Trust Portfolios L.P. (the “Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. Brown Brothers Harriman & Co. (“BBH”) will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

Paragraph (g) of Rule 5735 provides that if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.⁷ In addition,

investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

⁵ The Commission has issued an order, upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812-13795) (the “Exemptive Relief”). In addition, on December 6, 2012, the staff of the Commission’s Division of Investment Management (“Division”) issued a no-action letter (“No-Action Letter”) relating to the use of derivatives by actively-managed ETFs. See No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management. The No-Action Letter stated that the Division would not recommend enforcement action to the Commission under applicable provisions of and rules under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Exemptive Relief) invest in options contracts, futures contracts or swap agreements provided that they comply with certain representations stated in the No-Action Letter.

⁶ See Post-Effective Amendment No. 65 to Registration Statement on Form N-1A for the Trust, dated March 23, 2017 (File Nos. 333-176976 and 811-22245). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

⁷ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser 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

paragraph (g) further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund’s portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

In addition, personnel who make decisions on the Fund’s portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund’s portfolio. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with another broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Fund currently does not intend to use a sub-adviser.

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.

First Trust California Municipal High Income ETF

Principal Investments

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and California income taxes and its secondary objective will be long-term capital appreciation. Under normal market conditions,⁸ the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes and California income taxes (collectively, “Municipal Securities”).⁹ Municipal Securities will be issued by or on behalf of the State of California or territories or possessions of the U.S. (including without limitation Puerto Rico, the U.S. Virgin Islands and Guam), and/or the political subdivisions, agencies, authorities and other instrumentalities of such State, territories or possessions.¹⁰

⁸ The term “under normal market conditions” as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. On a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.*, the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.*, rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund’s net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

⁹ Assuming compliance with the investment requirements and limitations described herein, the Fund may invest up to 100% of its net assets in Municipal Securities that pay interest that generates income subject to the federal alternative minimum tax.

¹⁰ For the avoidance of doubt, Municipal Securities issued by or on behalf of territories or possessions of the U.S. and/or the political subdivisions, agencies, authorities and other instrumentalities of such territories or possessions (collectively, “Territorial Obligations”) will pay interest that is exempt from regular federal income taxes and California income taxes. Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will limit its investments in Territorial Obligations to 20% of its net assets. (See note 8 regarding the meaning of the terms “initial

Continued

The types of Municipal Securities in which the Fund may invest include municipal lease obligations (and certificates of participation in such obligations), municipal general obligation bonds, municipal revenue bonds, municipal notes, municipal cash equivalents, private activity bonds (including without limitation industrial development bonds), and pre-refunded¹¹ and escrowed to maturity bonds. In addition, Municipal Securities include securities issued by entities (referred to as “Municipal Entities”) whose underlying assets are municipal bonds (*i.e.*, tender option bond (TOB) trusts and custodial receipts trusts).

The Fund may invest in Municipal Securities of any maturity. However, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,¹² the weighted average maturity of the Fund will be less than or equal to 14 years.

Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,¹³ the Fund will invest at least 50% of its net assets in “investment grade Municipal Securities,” which are Municipal Securities that are, at the time of investment, rated investment grade (*i.e.*, rated Baa3/BBB – or above) by at least one nationally recognized statistical rating organization (“NRSRO”) rating such securities (or Municipal Securities that are unrated and determined by the Adviser to be of comparable quality¹⁴) (the “Investment

invest-up period” and “periods of high cash inflows or outflows.”)

¹¹ A pre-refunded municipal bond is a municipal bond that has been refunded to a call date on or before the final maturity of principal and remains outstanding in the municipal market. The payment of principal and interest of the pre-refunded municipal bonds held by the Fund will be funded from securities in a designated escrow account that holds U.S. Treasury securities or other obligations of the U.S. government (including its agencies and instrumentalities). As the payment of principal and interest is generated from securities held in a designated escrow account, the pledge of the municipality has been fulfilled and the original pledge of revenue by the municipality is no longer in place. The escrow account securities pledged to pay the principal and interest of the pre-refunded municipal bond do not guarantee the price movement of the bond before maturity. Investment in pre-refunded municipal bonds held by the Fund may subject the Fund to interest rate risk, market risk and credit risk. In addition, while a secondary market exists for pre-refunded municipal bonds, if the Fund sells pre-refunded municipal bonds prior to maturity, the price received may be more or less than the original cost, depending on market conditions at the time of sale.

¹² See note 8 regarding the meaning of the terms “initial invest-up period” and “periods of high cash inflows or outflows.”

¹³ *Id.*

¹⁴ Comparable quality of unrated Municipal Securities will be determined by the Adviser based

Grade Requirement”). The Fund will consider pre-refunded or escrowed to maturity bonds, regardless of rating, to be investment grade Municipal Securities. The Fund may invest up to 50% of its net assets in Municipal Securities that are, at the time of investment, not investment grade Municipal Securities (commonly referred to as “high yield” or “junk” bonds).¹⁵ If, subsequent to purchase by the Fund, a Municipal Security held by the Fund experiences a decrease in credit quality and is no longer an investment grade Municipal Security, the Fund may continue to hold the Municipal Security and it will not cause the Fund to violate the Investment Grade Requirement; however, the Municipal Security will be taken into account for purposes of determining whether purchases of additional Municipal Securities will cause the Fund to violate the Investment Grade Requirement.

Although as described below, certain of the representations included in this filing will meet or exceed similar requirements set forth in the generic listing standards for actively-managed ETFs (the “Generic Listing Standards”), it is not anticipated that the Fund will meet the requirement that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each have a minimum original principal amount outstanding of \$100 million or more.¹⁶ In general terms, as described above, the Fund will operate as an actively-managed ETF that normally invests in a portfolio of Municipal Securities and will be subject to the Investment Grade Requirement

on fundamental credit analysis of the unrated security and comparable rated securities. On a best efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a “comparable quality” determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and/or sector or industry analysis.

¹⁵ These Municipal Securities may include Municipal Securities that are currently in default and not expected to pay the current coupon (“Distressed Municipal Securities”). The Fund may invest up to 10% of its net assets in Distressed Municipal Securities. If, subsequent to purchase by the Fund, a Municipal Security held by the Fund becomes a Distressed Municipal Security, the Fund may continue to hold the Distressed Municipal Security and it will not cause the Fund to violate the 10% limitation; however, the Distressed Municipal Security will be taken into account for purposes of determining whether purchases of additional Municipal Securities will cause the Fund to violate such limitation.

¹⁶ See Nasdaq Rule 5735(b)(1)(B)(i).

(in contrast to, for example, an index-based ETF that tracks an index comprised of the largest municipal debt issuers). The Adviser notes that debt issuance sizes for municipal obligations are generally smaller than for corporate obligations. Furthermore, as a general matter, municipal borrowers in certain industries with municipal obligations rated in the “A” and “BBB” categories (in which the Fund currently intends to invest significantly)¹⁷ tend to have less outstanding debt than municipal borrowers in other municipal industries.

Therefore, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,¹⁸ at least 40% (based on dollar amount invested) of the Municipal Securities in which the Fund invests¹⁹ will be issued by issuers with total outstanding debt issuances that, in the aggregate, have a minimum amount of municipal debt outstanding at the time of purchase of \$50 million or more (the “40/50 Requirement”). The Adviser believes that the 40/50 Requirement is appropriate in light of the Fund’s investment objectives and the manner in which the Fund intends to pursue them. Given the expected availability of Municipal Securities that will satisfy the Fund’s investment parameters and the debt issuance profiles of the corresponding issuers and borrowers, the 40/50 Requirement should both provide the Fund with flexibility to construct its portfolio and, when combined with the other representations in this filing (including certain representations set forth below pertaining to fixed income securities weightings and number of non-affiliated issuers that are based on, but more stringent than, the Generic Listing Standards), should support the potential for diversity and liquidity, thereby mitigating the Commission’s concerns about manipulation.

Under normal market conditions, except for the initial invest-up period

¹⁷ These industries include charter schools, senior living facilities (*i.e.*, continuing care retirement communities (CCRCs)) and special tax districts, among others. See note 35 and accompanying text regarding the Fund’s exposure to different industries. In the case of a municipal conduit financing (in general terms, the issuance of municipal securities by an issuer to finance a project to be used primarily by a third party (the “conduit borrower”)), the “borrower” is the conduit borrower (*i.e.*, the party on which a bondholder must rely for repayment). In the case of other municipal financings, the “borrower” is the issuer of the municipal securities.

¹⁸ See note 8 regarding the meaning of the terms “initial invest-up period” and “periods of high cash inflows or outflows.”

¹⁹ For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

and periods of high cash inflows or outflows,²⁰ no component fixed income security (excluding the U.S. government securities described in “Other Investments” below) will represent more than 15% of the Fund’s net assets, and the five most heavily weighted component fixed income securities in the Fund’s portfolio (excluding U.S. government securities) will not, in the aggregate, account for more than 25% of the Fund’s net assets.²¹ Further, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,²² the Fund’s portfolio of Municipal Securities will include securities from a minimum of 30 non-affiliated issuers.²³ Moreover, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,²⁴ component securities that in the aggregate account for at least 90% of the weight of the Fund’s portfolio of Municipal Securities will be exempted securities as defined in Section 3(a)(12) of the Act.²⁵ Additionally, to the extent the Fund invests in Municipal Securities that are asset-backed securities,²⁶ such investments will not

²⁰ See note 8 regarding the meaning of the terms “initial invest-up period” and “periods of high cash inflows or outflows.”

²¹ See the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(ii), which provides that no component fixed income security (excluding U.S. Treasury securities and government-sponsored entity (“GSE”) securities) may represent more than 30% of the fixed income weight of the portfolio, and that the five most heavily weighted component fixed income securities in the portfolio (excluding U.S. Treasury securities and GSE securities) may not in the aggregate account for more than 65% of the fixed income weight of the portfolio. For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

²² See note 8 regarding the meaning of the terms “initial invest-up period” and “periods of high cash inflows or outflows.”

²³ See the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(iii), which provides that generally an underlying portfolio (excluding exempted securities) that includes fixed income securities must include a minimum of 13 non-affiliated issuers. For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account. Additionally, for purposes of this restriction, each separate political subdivision, agency, authority, or instrumentality of the State of California, and each guarantor, if any, will be treated as separate, non-affiliated issuers of Municipal Securities.

²⁴ See note 8 regarding the meaning of the terms “initial invest-up period” and “periods of high cash inflows or outflows.”

²⁵ See the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(iv)(d). For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

²⁶ For the avoidance of doubt, municipal debt securities backed by mortgages or tax liens will not be considered asset-backed securities.

account, in the aggregate, for more than 20% of the weight of the fixed income portion of the Fund’s portfolio.²⁷

Additional representations pertaining to the Fund’s portfolio, including representations relating to exposure to industries, are set forth below under “Investment Restrictions” (such representations relating to exposure to industries, together with the representations set forth in the two preceding paragraphs and the Investment Grade Requirement, are collectively the “Portfolio Representations”). In light of the requirements they impose (e.g., concerning credit quality, municipal debt outstanding, fixed income securities weightings, issuer diversification, the nature of the securities in which the Fund will invest (including representations relating to exempted securities and asset-backed securities), and exposure to industries), the Portfolio Representations should provide support regarding the anticipated diversity and liquidity of the Fund’s Municipal Securities portfolio and should mitigate the risks associated with manipulation.

Other Investments

With respect to up to 20% (in the aggregate) of its net assets, the Fund may invest in and hold the securities and other instruments (including cash) described below.

The Fund may invest in short-term debt instruments (described below), money market funds and other cash equivalents, and taxable and other municipal securities that are not Municipal Securities, or it may hold cash. The percentage of the Fund invested in such holdings or held in cash will vary and will depend on several factors, including market conditions. Short-term debt instruments, which do not include Municipal Securities, are issued by issuers having a long-term debt rating of at least A- /A3 (as applicable) by S&P Global Ratings (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”) or Fitch Ratings (“Fitch”) and have a maturity of one year or less.

The Fund may invest in the following short-term debt instruments: (1) Fixed rate and floating rate U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited

²⁷ See the Generic Listing Standards requirement set forth in Nasdaq Rule 5735(b)(1)(B)(v).

in a bank or savings and loan association; (3) bankers’ acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,²⁸ which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes.²⁹

The Fund may (i) invest in the securities of other investment companies registered under the 1940 Act, including money market funds, ETFs,³⁰ open-end funds (other than money market funds and other ETFs), and closed-end funds and (ii) acquire short positions in the securities of the foregoing investment companies.

The Fund may (i) invest in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts and (ii) acquire short positions in the foregoing derivatives. Transactions in the foregoing derivatives may allow the Fund to obtain net long or short exposures to selected interest rates. These derivatives may also be used to hedge risks, including interest rate risks and credit risks, associated with the Fund’s portfolio investments. The Fund’s

²⁸ The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust (“Trust Board”). The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

²⁹ The Fund may only invest in commercial paper rated A-3 or higher by S&P, Prime-3 or higher by Moody’s or F3 or higher by Fitch.

³⁰ An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on one or more registered exchanges. The Fund may invest in the securities of certain ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by such ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. See Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812-13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (e.g., 2X or -3X) ETFs.

investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of the Fund's broad-based securities market index (as defined in Form N-1A).

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser.³¹ The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.³²

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) municipal securities issued by governments or political subdivisions of governments, (b) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (c) securities of other investment companies.³³ In addition, under normal

market conditions, except for the initial invest-up period and periods of high cash inflows or outflows,³⁴ the Fund's investments in Municipal Securities will provide exposure (based on dollar amount invested) to at least 10 different industries³⁵ (with no more than 25% of the value of the Fund's net assets comprised of Municipal Securities that provide exposure to any single industry).³⁶

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value ("NAV")³⁷ only in large blocks of Shares ("Creation Units") in transactions with authorized participants, generally including broker-dealers and large institutional investors ("Authorized Participants"). Creation Units generally will consist of 50,000 Shares, although this may change from time to time. Creation Units, however, are not expected to consist of less than 50,000 Shares. As described in the Registration Statement and consistent with the Exemptive Relief, the Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the "Creation Basket").³⁸ In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments (which may include cash-

invests more than 25% of the value of its total assets in any one industry. *See, e.g.*, Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

³⁴ *See* note 8 regarding the meaning of the terms "initial invest-up period" and "periods of high cash inflows or outflows."

³⁵ The municipal industry classification system used by the Fund will divide the municipal securities universe into distinct categories that are intended to reflect either the use of proceeds generated by particular subsets of municipal securities or the collateral/sources of repayment securing/backing such municipal securities. For example, municipal bonds associated with the airport industry are issued to construct or expand an airport and/or related facilities and are secured by revenues generated from the use of the airport.

³⁶ For the avoidance of doubt, in the case of Municipal Securities that are issued by Municipal Entities, the underlying municipal bonds will be taken into account.

³⁷ The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange ("NYSE"), generally 4:00 p.m., Eastern Time (the "NAV Calculation Time"). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

³⁸ Subject to, and in accordance with, the provisions of the Exemptive Relief, it is expected that the Fund will typically issue and redeem Creation Units on a cash basis; however, at times, it may issue and redeem Creation Units on an in-kind (or partially in-kind) basis.

in-lieu amounts) with the lower value will pay to the other an amount in cash equal to the difference (referred to as the "Cash Component").

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor and BBH with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the transfer agent no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., Eastern Time) (the "Closing Time"), in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt, not later than the Closing Time, of a redemption request in proper form by the Fund through the transfer agent and only on a business day.

The Fund's custodian, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business of the Exchange, the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day prior to commencement of trading in the Shares.

Net Asset Value

The Fund's NAV will be determined as of the close of regular trading on the NYSE on each day the NYSE is open for trading. If the NYSE closes early on a valuation day, the NAV will be determined as of that time. NAV per Share will be calculated for the Fund by taking the value of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, including accrued expenses and dividends declared but unpaid, and dividing such amount by the total number of Shares outstanding. The result, rounded to the nearest cent, will be the NAV per Share. All valuations will be subject to review by the Trust Board or its delegate.

The Fund's investments will be valued daily. As described more specifically below, investments traded on an exchange (*i.e.*, a regulated market), will generally be valued at market value prices that represent last sale or official closing prices. In

³¹ In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.*, the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

³² The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

³³ *See* Form N-1A, Item 9. The Commission has taken the position that a fund is concentrated if it

addition, as described more specifically below, non-exchange traded investments (including Municipal Securities) will generally be valued using prices obtained from third-party pricing services (each, a "Pricing Service").³⁹ If, however, valuations for any of the Fund's investments cannot be readily obtained as provided in the preceding manner, or the Pricing Committee of the Adviser (the "Pricing Committee")⁴⁰ questions the accuracy or reliability of valuations that are so obtained, such investments will be valued at fair value, as determined by the Pricing Committee, in accordance with valuation procedures (which may be revised from time to time) adopted by the Trust Board (the "Valuation Procedures"), and in accordance with provisions of the 1940 Act. The Pricing Committee's fair value determinations may require subjective judgments about the value of an asset. The fair valuations attempt to estimate the value at which an asset could be sold at the time of pricing, although actual sales could result in price differences, which could be material.

Certain securities, including in particular Municipal Securities, in which the Fund may invest will not be listed on any securities exchange or board of trade. Such securities will typically be bought and sold by institutional investors in individually negotiated private transactions that function in many respects like an over-the-counter secondary market, although typically no formal market makers will exist. Certain securities, particularly debt securities, will have few or no trades, or trade infrequently, and information regarding a specific security may not be widely available or may be incomplete. Accordingly, determinations of the value of debt securities may be based on infrequent and dated information. Because there is less reliable, objective data available, elements of judgment may play a greater role in valuation of debt securities than for other types of securities.

The information summarized below is based on the Valuation Procedures as currently in effect; however, as noted above, the Valuation Procedures are amended from time to time and, therefore, such information is subject to change.

The following investments will typically be valued using information

³⁹The Adviser may use various Pricing Services or discontinue the use of any Pricing Services, as approved by the Trust Board from time to time.

⁴⁰The Pricing Committee will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.

provided by a Pricing Service: (a) Except as provided below, Municipal Securities; (b) except as provided below, short-term U.S. government securities, commercial paper, and bankers' acceptances, all as set forth under "Other Investments" (collectively, "Short-Term Debt Instruments"); and (c) except as provided below, taxable and other municipal securities that are not Municipal Securities. Debt instruments may be valued at evaluated mean prices, as provided by Pricing Services. Pricing Services typically value non-exchange-traded instruments utilizing a range of market-based inputs and assumptions, including readily available market quotations obtained from broker-dealers making markets in such instruments, cash flows, and transactions for comparable instruments. In pricing certain instruments, the Pricing Services may consider information about an instrument's issuer or market activity provided by the Adviser.

Municipal Securities, Short-Term Debt Instruments, and taxable and other municipal securities having a remaining maturity of 60 days or less when purchased will typically be valued at cost adjusted for amortization of premiums and accretion of discounts, provided the Pricing Committee has determined that the use of amortized cost is an appropriate reflection of value given market and issuer-specific conditions existing at the time of the determination.

Repurchase agreements will typically be valued as follows:

Overnight repurchase agreements will be valued at amortized cost when it represents the best estimate of value. Term repurchase agreements (*i.e.*, those whose maturity exceeds seven days) will be valued at the average of the bid quotations obtained daily from at least two recognized dealers.

Equity securities (including ETFs and closed-end funds) listed on any exchange other than the Exchange will typically be valued at the last sale price on the exchange on which they are principally traded on the business day as of which such value is being determined. Such equity securities (including ETFs and closed-end funds) listed on the Exchange will typically be valued at the official closing price on the business day as of which such value is being determined. If there has been no sale on such day, or no official closing price in the case of securities traded on the Exchange, such equity securities will typically be valued using fair value pricing. Such equity securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the

business day as of which such value is being determined at the close of the exchange representing the principal market for such securities.

Money market funds and other registered open-end management investment companies (other than ETFs, which will be valued as described above) will typically be valued at their net asset values as reported by such registered open-end management investment companies to Pricing Services.

Exchange-listed derivatives (including options on U.S. Treasury securities, options on U.S. Treasury futures contracts, and U.S. Treasury futures contracts) will typically be valued at the closing price in the market where such instruments are principally traded.

Availability of Information

The Fund's Web site (www.ftportfolios.com), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include the Shares' ticker, CUSIP and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),⁴¹ and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session⁴² on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the "Disclosed Portfolio" as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the

⁴¹The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

⁴²See Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., Eastern Time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., Eastern Time).

Fund's calculation of NAV at the end of the business day.⁴³

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include sufficient information for market participants to use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); with respect to holdings in derivatives, the identity of the security, index or other asset upon which the derivative is based; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the "Intraday Indicative Value," that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,⁴⁴ will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be based on quotes and closing prices provided by a dealer who makes a market in those instruments. Premiums and discounts between the Intraday Indicative Value and the market price may occur. This should not be viewed as a "real time" update of the NAV per Share of the Fund, which is calculated only once a day.

⁴³ Under accounting procedures to be followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

⁴⁴ Currently, the NASDAQ OMX Global Index Data Service ("GIDS") is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Investors will also be able to obtain the Fund's Statement of Additional Information ("SAI"), the Fund's annual and semi-annual reports (together, "Shareholder Reports"), and its Form N-CSR and Form N-SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's Web site at www.sec.gov. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association ("CTA") plans for the Shares. Quotation and last sale information for exchange-listed equity securities (including other ETFs and closed-end funds) will be available from the exchanges on which they are traded as well as in accordance with any applicable CTA plans. Quotation and last sale information for U.S. exchange-listed options will be available via the Options Price Reporting Authority.

One source of price information for Municipal Securities and taxable and other municipal securities will be the Electronic Municipal Market Access ("EMMA") of the Municipal Securities Rulemaking Board ("MSRB").⁴⁵ Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain same-day pricing information about municipal securities transactions. Moreover, pricing information for Municipal Securities, as well as for taxable and other municipal securities, Short-Term Debt Instruments (including short-term U.S. government securities, commercial paper, and

⁴⁵ Information available on EMMA includes next-day information regarding municipal securities transactions and par amounts traded. In addition, a source of price information for certain taxable municipal securities is the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA").

bankers' acceptances), and repurchase agreements will be available from major broker-dealer firms and/or major market data vendors and/or Pricing Services.

Pricing information for exchange-listed derivatives (including options on U.S. Treasury securities, options on U.S. Treasury futures contracts, and U.S. Treasury futures contracts), ETFs and closed-end funds will be available from the applicable listing exchange and from major market data vendors.

Money market funds and other open-end funds (excluding ETFs) are typically priced once each business day and their prices will be available through the applicable fund's Web site or from major market data vendors.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions and taxes will be included in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and continued listing, the Fund must be in compliance with Rule 10A-3⁴⁶ under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule

⁴⁶ See 17 CFR 240.10A-3.

5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

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. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m., Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is \$0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁴⁷ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including closed-end funds, ETFs, exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts) with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"),⁴⁸ and FINRA may obtain trading information

regarding trading in the Shares and such exchange-listed securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.⁴⁹

At least 90% of the Fund's net assets that are invested in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. All of the Fund's net assets that are invested in exchange-listed equity securities (including closed-end funds and ETFs) will be invested in securities that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the

requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) 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 foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The

⁴⁷ FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

⁴⁸ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

⁴⁹ For Municipal Securities, trade information can generally be found on the MSRB's EMMA.

Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

The Adviser is not a broker-dealer, but it is affiliated with a broker-dealer and is required to implement and maintain a "fire wall" with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund (including closed-end funds, ETFs, exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-listed securities and instruments held by the Fund from such markets and other entities.

In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. At least 90% of the Fund's net assets that are invested in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. All of the Fund's net assets that are invested in exchange-listed equity securities (including closed-end funds and ETFs) will be invested in securities that trade

in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes and California income taxes, and its secondary objective will be long-term capital appreciation. Under normal market conditions, the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in Municipal Securities. Under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the Fund will limit its investments in Territorial Obligations to 20% of its net assets. The Fund will invest in accordance with the Portfolio Representations. In light of the requirements they impose (*e.g.*, concerning credit quality, municipal debt outstanding, fixed income securities weightings, issuer diversification, the nature of the securities in which the Fund will invest (including representations relating to exempted securities and asset-backed securities), and exposure to industries), the Exchange believes that the Portfolio Representations should provide support regarding the anticipated diversity and liquidity of the Fund's Municipal Securities portfolio and should mitigate the risks associated with manipulation.

The Fund may invest up to 20% of its net assets in taxable and other municipal securities that are not Municipal Securities. In addition, the Fund may invest up to 10% of its net assets in Distressed Municipal Securities. With respect to up to 20% of its net assets, the Fund may (i) invest in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts and (ii) acquire short positions in the foregoing derivatives. The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of the Fund's broad-based securities market index (as defined in Form N-1A). Also, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being

maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be valued daily. Investments traded on an exchange (*i.e.*, a regulated market), will generally be valued at market value prices that represent last sale or official closing prices. Non-exchange traded investments (including Municipal Securities) will generally be valued using prices obtained from a Pricing Service. If, however, valuations for any of the Fund's investments cannot be readily obtained as provided in the preceding manner, or the Pricing Committee questions the accuracy or reliability of valuations that are so obtained, such investments will be valued at fair value, as determined by the Pricing Committee, in accordance with the Valuation Procedures and in accordance with provisions of the 1940 Act.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.

On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available via Nasdaq proprietary

quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares. One source of price information for Municipal Securities and taxable and other municipal securities will be the MSRB's EMMA.

Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain same-day pricing information about municipal securities transactions. Moreover, pricing information for Municipal Securities, as well as for taxable and other municipal securities, Short-Term Debt Instruments (including short-term U.S. government securities, commercial paper, and bankers' acceptances), and repurchase agreements will be available from major broker-dealer firms and/or major market data vendors and/or Pricing Services.

Pricing information for exchange-listed derivatives (including options on U.S. Treasury securities, options on U.S. Treasury futures contracts, and U.S. Treasury futures contracts), ETFs and closed-end funds will be available from the applicable listing exchange and from major market data vendors.

Money market funds and other open-end funds (excluding ETFs) are typically priced once each business day and their prices will be available through the applicable fund's Web site or from major market data vendors.

The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-

listed securities and instruments held by the Fund (including closed-end funds, ETFs, exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts) with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and such exchange-listed securities and instruments held by the Fund from such markets and other entities.

In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-listed securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such

proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2017-033 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-NASDAQ-2017-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2017-033 and should be submitted on or before May 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁰

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-07045 Filed 4-7-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15100 and #15101]

California Disaster #CA-00267

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA-4308-DR), dated 04/01/2017.

Incident: Severe Winter Storms, Flooding, and Mudslides.

Incident Period: 02/01/2017 Through 02/23/2017.

Effective Date: 04/01/2017.

Physical Loan Application Deadline Date: 05/31/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 01/02/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/01/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Kings, Lake, Lassen, Marin, Mariposa, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Sacramento, San Benito, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, Yuba

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 151006 and for economic injury is 151016.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017-07114 Filed 4-7-17; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0023]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that on March 10, 2017, National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2017-0023.

Applicant: National Railroad Passenger Corporation, Mr. Nicholas J. Croce III, Deputy Chief Engineer C&S, Acting, 2995 Market Street, Philadelphia, PA 19104.

Amtrak seeks to remove all four derails, one for each track in each direction at the Pelham Bay movable bridge interlocking, located at milepost 15.5 on Amtrak's Northeast Corridor, New York Division, Hutchinson River, Bronx, NY.

Each of the interlocking home signals protecting these derails, and the associated movable bridge, are equipped with the Northeast Corridor 100Hz coded cab signal system with speed control (also known as Automatic Train Control (ATC)). The interlocking is also equipped with Advanced Civil Speed Enforcement System (ACSES). The derails have been rendered obsolete by

ATC and ACSES technologies, which enforce slowing and stopping of trains prior to passing the interlocking home signals in stop position, rather than derail the train after it passes the stop signal.

The reason for removal of the derails is to eliminate maintenance and operation of obsolete hardware no longer needed, and to reduce delays to trains caused by failures of the derails.

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:* 200 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 May 25, 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

⁵⁰ 17 CFR 200.30-3(a)(12).

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 www.regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2017-07019 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0016]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on February 15, 2017, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2017-0016.

Applicant: Norfolk Southern Corporation, Mr. B.L. Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE., Atlanta, GA 30309.

NS seeks to convert power-operated switch #1 at control point (CP) Wood on the NS Fort Wayne Line, West Mayfield, PA, milepost (MP) PC 34.8, to a hand-operated switch equipped with an electric lock. The existing CP Wood will be moved west to, approximately MP PC 35.9, out of the curve and the switch to the Koppel Secondary will be converted to a hand-operated switch with an electric lock to improve 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 May 25, 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 www.regulations.gov.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2017-07017 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2005-23489]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January

24, 2017, Gettysburg & Northern Railroad Company (GNRR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives*. FRA assigned the petition Docket Number 2005-23489.

GNRR is seeking this waiver of compliance due to noncompliant glazing on two locomotives, numbered PREX 401 and PREX 402. GNRR is located in Gettysburg, PA, and operates on approximately 25.5 miles of track at speeds not exceeding 15 mph. The surrounding area is predominantly rural and these locomotives are used primarily in passenger service during the summer excursion season. Occasionally, they are also used as backup power units in freight service.

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 May 25, 2017 will be considered by FRA before final action is taken. Comments received

after that date will be considered as far as practicable.

Anyone is able to 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.). In accordance with 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 www.regulations.gov.

Robert C. Lauby,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2017-07013 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2016-0125]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on December 15, 2016, the Age of Steam Roundhouse (AOSR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 230, Steam Locomotive Inspection and Maintenance Standards. FRA assigned the petition Docket Number FRA-2016-0125.

AOSR maintains and operates the locomotive number 1293, a 4-6-2 Pacific Class type steam locomotive built by the Canadian Locomotive Works in 1948 for the Canadian Pacific Railway. AOSR requests relief from performing the 1,472 service day inspection (SDI) required by 49 CFR 231.17, for number 1293, as it pertains to the inspection of the boiler. AOSR is requesting an additional 3 calendar years before performing the 1,472 SDI. The previous SDI was performed on May 4, 2002. Granting relief will allow number 1293 a SDI period of 18 calendar years, while not exceeding the 1,472 service days.

AOSR sporadically operates number 1293 on the Ohio Central Railroad (OHCR), part of the Genesee & Wyoming Corporation (GWRR). AOSR's justification for requesting relief is that number 1293 has only operated for a total 285 service days within the 15 calendar year period. Due to the purchase of OHCR by the GWRR in 2008, AOSR now only operates number 1293 for static and switching displays at its facility while under steam. Since 2008, number 1293 has tallied 34 service days. AOSR anticipates that number 1293 will be used for approximately 34 additional service days during the requested time extension.

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 Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. 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 May 25, 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 www.regulations.gov.

Robert C. Lauby,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2017-07014 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0021]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on March 2, 2017, National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2017-0021.

Applicant: National Railroad Passenger Corporation, Mr. Nicholas J. Croce III, PE, Deputy Chief Engineer C&S, Acting, 2995 Market Street, Philadelphia, PA 19104.

Amtrak seeks to remove the wayside signals on both Main Tracks No. 1 and No. 2 at automatic block points 1572 and 1607 on Amtrak's Northeast Corridor, New England Division, in Rhode Island. Signals 1572-1 and 1572-2 at block point 1572 will fall within the limits of the future Liberty interlocking. These signals will be removed due to the installation of the new Liberty interlocking. The westbound distant signals to Kingston interlocking at block point 1607, signals 1607-1 and 1607-2 are not required in NORAC Rule 562 territory and cab signals without fixed automatic block signals will be removed from service. Block point 1607 will remain in service as a block point without wayside signals.

The existing automatic train control and Advanced Civil Speed Enforcement System (ACSES) designs will be modified to support the modifications to the block design with the addition of the new Liberty interlocking. ACSES will enforce a positive stop at each interlocking and a stop to a train with failed cab signal equipment unless the "C" signal is displayed allowing the failed train to enter the block.

The reason for removal of the signals is to eliminate maintenance and operation of unnecessary hardware no longer needed, and to reduce delays to trains caused by failures of the signals.

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 May 25, 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 www.regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2017-07018 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2016-0126]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 19, 2016, the Capital Metropolitan Transportation Authority (CMTA) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations for the purchase of four new railcars from Stadler Bussnang AG. Specifically, CMTA is requesting relief from 49 CFR part 229, Railroad Locomotive Safety Standards (229.47, 229.71, 229.135(b)(4)(xviii) and (xix)); 49 CFR part 231, Railroad Safety Appliance Standards (231.14(a)(2), (b)-(d), (f), (g)); and 49 CFR part 238, Passenger Equipment Safety Standards (238.305, 238.229, 238.230(d), and 238.309(b)). FRA assigned the petition Docket Number FRA-2016-0028.

The Capital Metro commuter rail system consists of a single rail line, known as the Red Line, running from downtown Austin, TX, to Austin's northern suburbs, a distance of 32 miles. The Red Line service began in March 2010. The current operation serves nine stations with a fleet of six diesel multiple unit (DMU) rail vehicles designated as model G1 GTWs, manufactured by Stadler Bussnag AG. Due to steadily increasing ridership and a desire to enhance service, Capital Metro will be adding four additional DMUs, manufactured by Stadler and designated model G4 GTW.

The Stadler G4 GTW DMUs are based on the G2 GTW DMUs, which are currently operating at the Denton County Transportation Authority in Denton, TX. The new vehicles are designed and built to current European design and regulatory standards, which differ in several areas from current U.S. design standards and regulations. Capital Metro believes that the design characteristics of the Stadler G4 GTW vehicles provide an equivalent or higher level of safety and security to the passengers and crew.

Capital Metro has organized its regulatory compliance efforts into two distinct but related parts: Part 1 represents the "base" compliance assessment effort (this petition) and Part 2 represents a separate petition to utilize Alternative Vehicle Technology crashworthiness technology as outlined in "Technical Criteria and Procedures for Evaluating the Crashworthiness and Occupant Protection Performance of Alternatively-Designed Passenger Rail Equipment for Use in Tier I Service" and the recent notice of proposed rulemaking (NPRM) on Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets NPRM (81 FR 88006, December 6, 2016).

Noting that certain provisions in 49 CFR part 231 pertaining to safety appliances are statutorily required, and therefore not subject to FRA's waiver authority, CMTA also requested that FRA exercise its authority under 49 U.S.C. 20306 to exempt CMTA from certain provisions of Chapter 203, Title 49 of the United States Code because the G4 GTW DMU vehicles will be equipped with their own array of safety devices resulting in equivalent safety.

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 May 25, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to 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.). In accordance with 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](http://www.regulations.gov).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017-07015 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2015-0004]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on February 10, 2017, CSX Transportation, Inc. (CSX) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification

of a signal system. FRA assigned the petition Docket Number FRA-2015-0004.

Applicant: CSX Transportation, Inc., Mr. Jody Cox, Chief Engineer Communications & Signals, 500 Water Street, Speed Code J-350, Jacksonville, FL 32202.

On August 10, 2015, FRA granted conditional approval to CSX's block signal application under Docket Number FRA-2015-0004, which sought approval of the proposed discontinuance of an automatic block signal (ABS) system between control point (CP) Mitchell, milepost (MP) OOO 256.0 and CP NE Vernia, MP OOO 314.6, on the Hoosier Subdivision, Louisville Division, at Mitchell, IN. The conditions of approval were:

1. CSX may retire the signal system in place for a time period not to exceed 2 years from August 10, 2015.

2. Traffic levels are to be tracked to identify any change.

3. Distant approach signals to CP Mitchell and NE Vernia are to be installed.

4. CSX must notify FRA's regional office when the signal system is retired in place.

5. CSX may request permanent discontinuance of the signal system 6 months prior to the expiration of the 2-year period.

In the February 10, 2017, letter CSX requests permanent discontinuance of the signal system as defined in Condition 5 of FRA's August 10, 2015, conditional approval. CSX will comply with Conditions 3 and 4 upon approval of a permanent discontinuance.

The reason for the proposed discontinuance is that ABS is no longer needed due to traffic level reductions. The subdivision is being used for storage only. The Hoosier Subdivision has been out of service since the Surface Transportation Board approved the discontinuance of service, in April 2010. There has been no traffic in 2015 or 2016 over this segment. The ABS will be discontinued and replaced with track warrant control D-505 rules.

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 May 25, 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](http://www.regulations.gov).

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2017-07012 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0007]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR),

this document provides the public notice that by a document dated January 12, 2017, the Union Pacific Railroad has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 229.15, *Remote control locomotives*. FRA assigned the petition Docket Number FRA-2017-0007.

This request is for relief from performing the required tests under 49 CFR 229.15(16)(b)(i), which requires that each time an Operator Control Unit (OCU) is linked to a Remote Control Locomotive (RCL), and that at the start of each shift a railroad shall test: (i) The air brakes and the OCU's safety features, including the tilt switch and alerter device; and (ii) the man down-tilt feature automatic notification. In addition, the Union Pacific is requesting relief from 49 CFR 229.15(16)(4), which requires that each time an RCL is placed in service and at the first practical time after the start of each shift, but no more than 2 hours after the start of that shift, locomotives that utilize a positive train stop system, such as remote control pullback protection, shall perform a conditioning run over a track that the positive train stop system is being utilized on to ensure that the system functions as intended.

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 part 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 May 25, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to 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.). In accordance with 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.dot.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Robert C. Lauby,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2017-07016 Filed 4-7-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Resolution for Transactions Involving Treasury Securities

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Resolution for Transactions Involving Treasury Securities.

DATES: Written comments should be received on or before June 9, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4-A, Parkersburg, WV 26106-1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Resolution for Transactions Involving Treasury Securities.

OMB Number: 1530-0049.

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Number: FS Form 1010.

Abstract: The information is collected to establish an official's authority (by name and title) when conducting transactions involving Treasury Securities on behalf of an organization.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 2,580.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 430.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the 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.

Dated: April 4, 2017.

Bruce A. Sharp,
Bureau Clearance Officer.

[FR Doc. 2017-07096 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY**Bureau of the Fiscal Service****Proposed Collection of Information:
Legacy Treasury Direct Forms**

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Legacy Treasury Direct Forms.

DATES: Written comments should be received on or before June 9, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4-A, Parkersburg, WV 26106-1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Legacy Treasury Direct Forms.

OMB Number: 1530-0042.

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.
Form Number:

FS Form 5178—Transaction Request
FS Form 5179—Security Transfer Request

FS Form 5182—New Account Request
FS Form 5188—Durable Power of Attorney for Securities and Savings Bonds Transactions

FS Form 5191—Application for Recognition as Natural Guardian of a Minor

FS Form 5235—Report of Non-Receipt, Loss, Theft, or Destruction of a Fiscal Agency Check and Application for Replacement

FS Form 5236—Claim for Proceeds of a Fiscal Agency Check

Abstract: The information is requested to issue and maintain Treasury Bills, Notes, and Bonds.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 20,900.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 4,528.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the 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.

Dated: April 4, 2017.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2017-07095 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY**Bureau of the Fiscal Service****Proposed Collection of Information:
Direct Deposit Sign-Up Form**

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Direct Deposit Sign-Up Form.

DATES: Written comments should be received on or before June 9, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information

to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4-A, Parkersburg, WV 26106-1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Direct Deposit Sign-Up Form.

OMB Number: 1530-0050.

Transfer of OMB Control Number: The Bureau of Public Debt (BPD) and the Financial Management Service (FMS) have consolidated to become the Bureau of the Fiscal Service (Fiscal Service). Information collection requests previously held separately by BPD and FMS will now be identified by a 1530 prefix, designating Fiscal Service.

Form Number: FS Form 5396.

Abstract: The information is collected to process requests for direct deposit of a Series HH or Series H bond interest payment or a savings bond redemption payment to a financial institution.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 55,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 9,167.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the 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.

Dated: April 4, 2017.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2017-07097 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Sanctions Actions Pursuant to Executive Order 13722**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is updating the identifying information on its list of Specially Designated Nationals and Blocked Persons (SDN List) for one entity whose property and interests in property are blocked pursuant to Executive Order 13722.

DATES: OFAC's actions described in this notice were effective on March 31, 2017.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (www.treas.gov/ofac).

Notice of OFAC Actions

On March 31, 2017, the Associate Director of the Office of Global Targeting updated the SDN List entry for the entity listed below, whose property and interests in property are blocked pursuant E.O. 13722, "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea." That entity's entry on the SDN List shall now read as follows:

KORYO CREDIT DEVELOPMENT BANK (a.k.a. DAESONG CREDIT DEVELOPMENT BANK; a.k.a. KORYO GLOBAL CREDIT BANK; a.k.a. KORYO GLOBAL TRUST BANK), Yanggakdo International Hotel, RYUS, Pyongyang, Korea, North; SWIFT/BIC KGCBKPPY; all offices worldwide [DPRK3].

Dated: April 4, 2017.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2017-07041 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Sanctions Actions Pursuant to Executive Orders 13722, 13382, and 13687**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons whose property and interests in property are blocked pursuant to Executive Orders (E.O.s) 13722, 13382, and 13687.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; Assistant Director for Licensing, tel.: 202-622-2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202-622-2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (www.treasury.gov/ofac).

Notice of OFAC Action(s)

On March 31, 2017, OFAC's Acting Director determined that the property and interests in property of the following persons are blocked:

Individuals

1. CHOE, Chun Yong (a.k.a. CH'OE, Ch'un-yo'ng), Moscow, Russia; nationality Korea, North; Gender Male; Passport 654410078 (Korea, North); ILSIM International Bank representative (individual) [DPRK3] (Linked To: ILSIM INTERNATIONAL BANK).

Designated pursuant to subsection 2(a)(viii) of E.O. 13722, "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea," for having acted or purported to act for or on behalf of, directly or indirectly, ILSIM INTERNATIONAL BANK, a person whose property and interests in property are blocked pursuant to E.O. 13722.

2. KIM, Nam Ung, Moscow, Russia; nationality Korea, North; Passport 654110043 (Korea, North); ILSIM International Bank representative (individual) [DPRK3] (Linked To: ILSIM INTERNATIONAL BANK).

Designated pursuant to subsection 2(a)(viii) of E.O. 13722 for having acted or purported

to act for or on behalf of, directly or indirectly, ILSIM INTERNATIONAL BANK, a person whose property and interests in property are blocked pursuant to E.O. 13722.

3. KIM, Mun Chol (a.k.a. KIM, Mun-ch'ol), Dandong, China; DOB 25 Mar 1957; nationality Korea, North; Korea United Development Bank representative (individual) [DPRK3] (Linked To: KOREA UNITED DEVELOPMENT BANK).

Designated pursuant to subsection 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, KOREA UNITED DEVELOPMENT BANK, a person whose property and interests in property are blocked pursuant to E.O. 13722. Also designated pursuant to subsection 2(a)(viii) of E.O. 13722 for having acted or purported to act for or on behalf of, directly or indirectly, KOREA UNITED DEVELOPMENT BANK, a person whose property and interests in property are blocked pursuant to E.O. 13722.

4. KIM, Tong-ho, Vietnam; DOB 18 Aug 1969; nationality Korea, North; Gender Male; Passport 745310111 (Korea, North); Tanchon Commercial Bank representative (individual) [DPRK3].

Designated pursuant to subsection 2(a)(i) of E.O. 13722 for operating in the financial services industry in the North Korean economy, an industry in the North Korean economy determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to that subsection.

5. KANG, Chol Su, Linjiang, China; DOB 13 Feb 1969; Passport 472234895 (Korea, North); Korea Ryonbong General Corporation Official (individual) [NPWMD] (Linked To: KOREA RYONBONG GENERAL CORPORATION).

Designated pursuant to subsection 1(a)(iv) of E.O. 13382, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters," for acting or purporting to act for or on behalf of, directly or indirectly, KOREA RYONBONG GENERAL CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

6. PAK, Il-Kyu (a.k.a. PAK, Il-Gyu), Shenyang, China; Gender Male; Passport 563120235; Korea Ryonbong General Corporation Official (individual) [NPWMD] (Linked To: KOREA PUGANG TRADING CORPORATION).

Designated pursuant to subsection 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, KOREA PUGANG TRADING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. JANG, Sung Nam, Dalian, China; DOB 14 Jul 1970; Gender Male; Passport 563120368 (Korea, North) issued 22 Mar 2013 expires 22 Mar 2018; Chief of the Tangun Trading Corporation branch in Dalian, China (individual) [NPWMD] (Linked To: KOREA TANGUN TRADING CORPORATION).

Designated pursuant to subsection 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly,

KOREA TANGUN TRADING CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

8. JO, Chol Song (a.k.a. CHO, Ch'o'l-so'ng), Dandong, China; DOB 25 Sep 1984; nationality Korea, North; Gender Male; Passport 654320502 expires 16 Sep 2019; Korea Kwangson Banking Corporation Deputy Representative (individual) [NPWMD] (Linked To: KOREA KWANGSON BANKING CORP).

Designated pursuant to subsection 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, KOREA KWANGSON BANKING CORP, a person whose property and interests in property are blocked pursuant to E.O. 13382.

9. RI, Su Yong, Cuba; DOB 25 Jun 1968; nationality Korea, North; Gender Male; Passport 654310175; Korea Ryonbong General Corporation Official (individual) [NPWMD] (Linked To: KOREA RYONBONG GENERAL CORPORATION).

Designated pursuant to subsection 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, KOREA RYONBONG GENERAL CORPORATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

10. HAN, Jang Su (a.k.a. HAN, Chang-su), Moscow, Russia; DOB 08 Nov 1969; POB Pyongyang; nationality Korea, North; Gender Male; Passport 745420176 expires 19 Oct 2020; Foreign Trade Bank chief representative (individual) [NPWMD].

Designated pursuant to subsection 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, the FOREIGN TRADE BANK, a person whose property and interests in property are blocked pursuant to E.O. 13382.

11. KIM, Yong Su (a.k.a. KIM, Yo'ng-su), Vietnam; DOB 09 Feb 1969; nationality Korea, North; Gender Male; Passport 654435458 expires 26 Nov 2019; Chief Representative of the Marine Transport Office in Vietnam (individual) [DPRK3].

Designated pursuant to subsection 1(a)(ii) of E.O. 13687, "Imposing Additional Sanctions With Respect to North Korea," for being an official of the Government of North Korea.

Entity

1. PAKSOL TRADING CORPORATION (a.k.a. BAEKSOL TRADING; a.k.a. BAEKSUL TRADING; a.k.a. KOREA PAK SOL TRADING; a.k.a. PAK SOL TRADING CORPORATION; a.k.a. PAKSO'L CORPORATION; a.k.a. PAKSO'L TRADING CORPORATION), Korea, North [DPRK3].

Designated pursuant to subsection 2(a)(ii) of E.O. 13722 for having sold, supplied, transferred, or purchased, directly or indirectly, to or from North Korea or any person acting for or on behalf of the Government of North Korea or the Workers' Party of Korea, metal, graphite, coal, or software, where any revenue or goods received may benefit the Government of North Korea or the Workers' Party of Korea,

including North Korea's nuclear or ballistic missile programs.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017-07040 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Departmental Offices; Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning April 1, 2017, and ending on June 30, 2017, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 0.61 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106-1328. You can download this notice at the following Internet addresses: <http://www.treasury.gov> or <http://www.federalregister.gov>.

DATES: Effective April 1, 2017 to June 30, 2017.

FOR FURTHER INFORMATION CONTACT:

Adam Charlton, Manager, Federal Borrowings Branch, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106-1328, (304) 480-5248; Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia, 26106-1328, (304) 480-5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be "at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum." 8 U.S.C. 1363(a). Related Federal regulations state that "Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero." 8 CFR 293.2.

Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day

Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015-18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect Web site.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2017-07071 Filed 4-7-17; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Advisory Committee on Disability Compensation (Committee) will meet on June 20-21, 2017. The Committee will meet at 1800 G Street NW., Washington, DC 20006. The meeting will be held on the Eight Floor in Conference Room 870. The sessions will begin at 8:30 a.m. and end at 4:30 p.m. EST each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The Committee will receive briefings on issues related to compensation for Veterans with service-connected disabilities and on other VA benefits programs. Time will be allocated for receiving public comments. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1-2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Dr. Ioulia Vvedenskaya, Department of Veterans Affairs, Veterans Benefits Administration, Compensation Service,

Policy Staff (211C), 810 Vermont Avenue NW., Washington, DC 20420 or email at Ioulia.Vvedenskaya@va.gov. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the screening process. Due to an increase in security protocols, you should allow an additional 30 minutes before the meeting begins. Routine escort will be provided until 9:00 a.m. each day. Any member of the public wishing to attend the meeting or seeking additional information should email Dr. Vvedenskaya or call her at (202) 461-9882.

Dated: April 5, 2017.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2017-07102 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2., that the Advisory Committee on Women Veterans will meet on May 9-11, 2017, at VA Central Office, 810 Vermont Avenue NW., Washington, DC 20420. On Tuesday, May 9, 2017, the meeting will be held in Conference Room 530, from 8:00 a.m. to 4:00 p.m.;

on Wednesday, May 10, 2017, the meeting will be held in the G.V. Sonny Montgomery Veterans Conference Center Room 230, from 8:30 a.m. to 4:30 p.m.; and on Thursday, May 11, 2017, the meeting will be held in the G.V. Sonny Montgomery Veterans Conference Center Room 230, from 8:30 a.m. to 3:00 p.m. The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, and Staff Offices, as well as updates on recommendations from the 2016 Report of the Advisory Committee on Women Veterans.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton, VA Center for Women Veterans (00W), 810 Vermont Avenue NW., Washington, DC 20420, or email at 00W@mail.va.gov, or fax to (202) 273-7092. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance

process. Due to an increase in security protocols, and in order to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins. Any member of the public who wishes to attend the meeting or wants additional information should contact Ms. Middleton at (202) 461-6193.

Dated: April 5, 2017.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

[FR Doc. 2017-07063 Filed 4-7-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463; Title 5 U.S.C. App. 2 (Federal Advisory Committee Act) that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will meet from 8 a.m. to 5 p.m. on the dates indicated below (unless otherwise listed):

Subcommittee	Date	Location
Infectious Diseases—B	May 18, 2017	Hilton Crystal City—Reagan National Airport.
Nephrology	May 18, 2017	Hilton Crystal City—Reagan National Airport.
Hematology	May 19, 2017	Hyatt Regency Washington.
Oncology—A/D	May 19, 2017	Hyatt Regency Washington.
Cellular & Molecular Medicine	May 22, 2017	Hilton Crystal City—Reagan National Airport.
Endocrinology—B	May 22, 2017	Hilton Crystal City—Reagan National Airport.
Neurobiology—C	May 23, 2017	Hilton Crystal City—Reagan National Airport.
Oncology—B	May 24 2017	Hilton Crystal City—Reagan National Airport.
Surgery	May 24 2017	Hilton Crystal City—Reagan National Airport.
Cardiovascular Studies—A	May 25, 2017	Hilton Crystal City—Reagan National Airport.
Infectious Diseases—A	May 25, 2017	Hilton Crystal City—Reagan National Airport.
Oncology—C	May 25 2017	Hilton Crystal City—Reagan National Airport.
Immunology & Dermatology—A	May 31, 2017	Hilton Crystal City—Reagan National Airport.
Neurobiology—B	May 31, 2017	Hyatt Regency Washington.
Oncology—E	May 31, 2017	Hyatt Regency Washington.
Gulf War Research	June 1, 2017	* VA Central Office.
Pulmonary Medicine	June 1, 2017	Hyatt Regency Washington.
Endocrinology—A	June 2, 2017	Hyatt Regency Washington.
Neurobiology—A	June 2, 2017	Hyatt Regency Washington.
Neurobiology—E	June 2, 2017	Hyatt Regency Washington.
Gastroenterology	June 6, 2017	Hilton Crystal City—Reagan National Airport.
Mental Health & Behavioral Sciences—A	June 7, 2017	Hilton Crystal City—Reagan National Airport.
Neurobiology—F	June 7, 2017	* VA Central Office.
Cardiovascular Studies—B	June 8, 2017	Hyatt Regency Washington.
Mental Health & Behavioral Sciences—B	June 8, 2017	Hyatt Regency Washington.
Epidemiology	June 8, 2017	* VA Central Office.
Neurobiology—D	June 9, 2017	Hyatt Regency Washington.
Special Emphasis Panel on Million Veteran Prog Proj	July 11-12, 2017	Hilton Crystal City—Reagan National Airport.

Subcommittee	Date	Location
Eligibility	July 17, 2017	Hilton Crystal City—Reagan National Airport.

The addresses of the meeting sites are: Hilton Crystal City—Reagan National Airport, 2399 Jefferson Davis Hwy., Arlington, VA; Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue NW., Washington, DC; VA Central Office, 1100 First Street NE., Suite 600, Washington, DC.

* Teleconference

The purpose of the subcommittees is to provide advice on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for VA merit review evaluation. Proposals submitted for review include various medical specialties within the general areas of biomedical, behavioral and clinical science research.

These subcommittee meetings will be closed to the public for the review, discussion, and evaluation of initial and renewal research proposals, which involve reference to staff and consultant critiques of research proposals.

Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the subcommittee meetings is in accordance with Title 5 U.S.C. 552b(c)(6) and (9)(B).

Those who would like to obtain a copy of the minutes from the closed subcommittee meetings and rosters of the subcommittee members should contact Holly Krull, Ph.D., Manager, Merit Review Program (10P9B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–8522 or email at holly.krull@va.gov.

Dated: April 5, 2017.

LaTonya L. Small,
Advisory Committee Management Officer.

[FR Doc. 2017–07125 Filed 4–7–17; 8:45 am]

BILLING CODE



FEDERAL REGISTER

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Part II

Securities and Exchange Commission

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.;
Notice of Filing of a Proposed Rule Change To Adopt Consolidated FINRA
Registration Rules, Restructure the Representative-Level Qualification
Examination Program and Amend the Continuing Education Requirements;
Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80371; File No. SR-FINRA-2017-007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt Consolidated FINRA Registration Rules, Restructure the Representative-Level Qualification Examination Program and Amend the Continuing Education Requirements

April 4, 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 March 28, 2017, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt with amendments the NASD and Incorporated NYSE rules relating to qualification and registration requirements as FINRA rules in the Consolidated FINRA Rulebook.³ The proposed rule change also restructures the current representative-level qualification examinations and creates a general knowledge examination and specialized knowledge examinations. In addition, the proposed rule change amends the Continuing Education (“CE”) requirements.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

Background

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members. Accordingly, FINRA has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. The current FINRA registration rules include both NASD rules and rules incorporated from the NYSE (“Incorporated NYSE rules”).

In general, the current rules: (1) Require that persons engaged in a member’s investment banking or securities business who are to function as representatives or principals register with FINRA in each category of registration appropriate to their functions by passing one or more qualification examinations; (2) exempt specified associated persons from the registration requirements; and (3) provide for permissive registration of specified persons.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA published *Regulatory Notice* 09-70 (December 2009), seeking comment on a set of proposed consolidated registration rules.⁴ The proposed rules, among other changes, allowed any associated person to obtain and maintain any registration permitted by the member. FINRA also proposed adopting a Retained Associate (“RA”) status in the Central Registration Depository (“CRD®”) system for

individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Under the proposal, RAs would be able to obtain and maintain any registration permitted by the member, subject to specific requirements. Further, the proposal created an “active” and “inactive” registration status in the CRD system to distinguish between required and permissive registrations, including the proposed RA status. In addition, the proposal included several other substantive changes, such as adoption of a Compliance Officer registration category for Chief Compliance Officers (“CCOs”), designation of a Principal Financial Officer and Principal Operations Officer, enhancement of the examination requirements for Research Principals, adoption of registration categories for Supervisory Analysts, Securities Lending Representatives and Securities Lending Supervisors, imposition of an experience requirement for representatives functioning as principals for a limited period before passing a principal examination and elimination of the Foreign Associate registration category.

As discussed in Item II.C. below, commenters were concerned with the complexity and operational and cost burden of the RA proposal. FINRA also engaged in discussions with SEC staff regarding the impact of the RA proposal. As a result, FINRA has revised the proposal as published in *Regulatory Notice* 09-70. Specifically, rather than allowing individuals to obtain and maintain their registrations based on an RA status, the proposed rule change establishes a process whereby individuals who would be working for a financial services industry affiliate of a member would terminate their registrations with that member and would be granted a waiver of their qualification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy specified conditions. FINRA has also eliminated the proposal to create an “active” and “inactive” registration status in the CRD system to distinguish between required and permissive registrations. Further, FINRA is no longer proposing to establish registration categories for Securities Lending Representatives and Securities Lending Supervisors.

FINRA administers qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge. The first of these examinations was established in 1956. Over time, the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE (“dual members”). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

⁴ In addition, FINRA had proposed to transfer NASD Rule 3010(e) relating to background checks on registration applicants into the Consolidated FINRA Rulebook as a FINRA rule. FINRA adopted NASD Rule 3010(e) as FINRA Rule 3110(e) as part of a separate proposed rule change. See *Regulatory Notice* 15-05 (March 2015).

examination program has increased in complexity to address the introduction of new products and functions, and related regulatory concerns and requirements. As a result, today, there are a large number of examinations, considerable content overlap across the representative-level examinations and requirements for individuals in various segments of the industry to pass multiple examinations.

To address these issues, FINRA published *Regulatory Notice* 15–20 (May 2015), seeking comment on a proposal to restructure the current representative-level qualification examination program⁵ into a more efficient format whereby all potential representative-level registrants would take a general knowledge examination called the Securities Industry Essentials™ (“SIE™”) and a tailored, specialized knowledge examination for their particular registered role. The proposal, among other things, eliminates duplicative testing of general securities knowledge on examinations. The proposal also eliminates several representative-level registration categories and associated examinations that have become outdated or have limited utility. As described in more detail in Item II.C. below, most of the commenters expressed overall support for the proposed approach.

The proposed rule change combines the proposals set forth in *Regulatory Notices* 09–70 and 15–20 with a few changes, including those made in response to comments.

Proposed Rules

A. Registration Requirements (Proposed FINRA Rule 1210)

NASD Rules 1021(a) and 1031(a) currently require that persons engaged, or to be engaged, in the investment banking or securities business of a member who are to function as representatives or principals register with FINRA in each category of registration appropriate to their functions as specified in NASD Rules 1022 and 1032.⁶ FINRA is proposing to consolidate and streamline the provisions of NASD Rules 1021(a) and 1031(a) and adopt them as FINRA Rule 1210, subject to several changes.

⁵ FINRA is also evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time.

⁶ In addition, NASD IM–1000–3 provides that the failure to register an individual as a registered representative may be deemed to be conduct inconsistent with just and equitable principles of trade and may be sufficient cause for appropriate disciplinary action.

Proposed FINRA Rule 1210 provides that each person engaged in the investment banking or securities business of a member must register with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed FINRA Rule 1220, unless exempt from registration pursuant to proposed FINRA Rule 1230. Proposed FINRA Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules. This latter provision is a consolidation of similar provisions in the registration categories under the current NASD rules.⁷

The original proposal in *Regulatory Notice* 09–70 created an “active” and “inactive” registration status in the CRD system to distinguish between required and permissive registrations, and it required firms to notify FINRA of such status. The proposed rule change eliminates the distinction between an “active” and “inactive” status.⁸

Further, FINRA is proposing to delete NASD IM–1000–3 because it is superfluous. The failure to register a representative as required under current NASD Rule 1031(a) is in fact a violation of FINRA rules.

B. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

NASD Rule 1021(e)(1) currently requires that a member, except a sole proprietorship, have a minimum of two registered principals with respect to each aspect of the member’s investment banking and securities business pursuant to the applicable provisions of NASD Rule 1022.⁹ This requirement

⁷ See NASD Rules 1022(a)(6), (b)(3), (c)(4), (d)(2), (e)(3) and (f)(4) and NASD Rules 1032(b)(2), (c)(2), (d)(3), (e)(2), (f)(3), (g)(2), (h)(3) and (i)(4).

⁸ However, as is the case under the current rules, FINRA will continue to use the term “inactive” in the CRD system in reference to persons who have failed to satisfy the Regulatory Element of the CE requirements, persons who have failed to submit their fingerprint information within the required time period and persons who are in active duty in the Armed Forces of the United States.

⁹ In 2003, the rule was amended to replace the phrase “pursuant to the provisions of Rule 1022(a), (d) and (e), whichever are applicable” with the current phrase “pursuant to the applicable provisions of Rule 1022.” See Securities Exchange Act Release No. 47433 (March 3, 2003), 68 FR 11424 (March 10, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–NASD–2003–24). NASD Rules 1022(a), (d) and (e) are the registration categories of General Securities Principal, Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal, respectively. These principal registration categories, which

applies to applicants for membership and existing members.

NASD Rule 1021(e)(2) provides that, pursuant to the FINRA Rule 9600 Series, FINRA may waive the two-principal requirement in situations that indicate conclusively that only one person associated with an applicant for membership should be required to register as a principal.

NASD Rule 1021(e)(3) provides that an applicant for membership, if the nature of its business so requires, must also have a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal) and a Registered Options Principal.¹⁰

FINRA is proposing to adopt NASD Rule 1021(e) as FINRA Rule 1210.01, subject to the changes below. FINRA is proposing to provide firms that limit the scope of their business with greater flexibility to satisfy the two-principal requirement. In particular, proposed FINRA Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member’s activities.¹¹ For instance, if a firm’s business is limited to securities trading, the firm may opt to have two Securities Trader Principals, instead of two General Securities Principals.

Currently, a sole proprietor member (without any other associated persons) is not subject to the two-principal requirement because such member is operating as a one-person firm. Given that one-person firms may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), proposed FINRA Rule 1210.01 provides that any member with only one associated person is excluded from the two-principal requirement.

In addition, proposed FINRA Rule 1210.01 clarifies that existing members as well as new applicants may request

depend on the scope of a firm’s activities, are the only current principal categories that satisfy the two-principal requirement. The 2003 change was made for stylistic purposes and was part of other technical changes to the registration rules.

¹⁰ NASD Rules 1022(b) and (c) require all firms to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal, as applicable. This requirement became effective on September 17, 2001. However, the requirement does not apply to members that were granted an exemption prior to September 17, 2001. See *Notice to Members* (“NTM”) 01–52 (August 2001).

¹¹ The principal registration categories are described in greater detail below.

a waiver of the two-principal requirement.

The proposed rule further provides that all members are required to have a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer and a Principal Operations Officer.¹² Moreover, the proposed rule requires that: (1) A member engaged in investment banking activities have an Investment Banking Principal;¹³ (2) a member engaged in research activities have a Research Principal; (3) a member engaged in securities trading activities have a Securities Trader Principal; and (4) a member engaged in options activities with the public have a Registered Options Principal. These requirements extend to existing members as well as new applicants.

C. Permissive Registrations (Proposed FINRA Rule 1210.02)

NASD Rules 1021(a) and 1031(a) currently permit a member to register or maintain the registration(s) as a representative or principal of an individual performing legal, compliance, internal audit, back-office operations¹⁴ or similar responsibilities for the member. NASD Rule 1031(a) also permits a member to register or maintain the registration as a representative of an individual performing administrative support functions for registered persons. In addition, NASD Rules 1021(a) and 1031(a) permit a member to register or maintain the registration(s) as a representative or principal of an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

FINRA is proposing to consolidate these provisions under FINRA Rule 1210.02. FINRA is also proposing to expand the scope of permissive registrations and clarify a member's

obligations regarding individuals who are maintaining such registrations.¹⁵

Specifically, proposed FINRA Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member.¹⁶ For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed FINRA Rule 1210.02 allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

FINRA is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities.¹⁷ For instance, an individual

working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of FINRA Rule 3240 relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the requirements of FINRA Rule 3110, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a non-registered person. For purposes of compliance with FINRA Rule 3110(a)(5) (which requires the assignment of each registered person to an appropriately registered supervisor), members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.¹⁸

FINRA is also considering enhancements to the CRD system and BrokerCheck, as part of a separate proposal, to identify whether a registered person is maintaining only a permissive registration and to disclose the significance of such permissive registration to the general public.

D. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

NASD Rules 1021(a) and 1031(a) currently set forth general requirements

business models and reduces the burden on FINRA of having to revise the subset of applicable rules each time FINRA adopts a new rule or amends an existing rule.

¹⁸ In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual. For instance, for purposes of FINRA Rule 3110(a)(5), an Investment Company and Variable Contracts Products Principal would be able to function as the registered supervisor of an individual who is permissively maintaining a General Securities Principal registration.

¹² Those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement. However, as noted below, such members will be subject to the requirement to designate a Principal Financial Officer and a Principal Operations Officer.

¹³ As described below, the Investment Banking Principal registration category is a newly proposed principal category that corresponds to the registration requirements of current NASD Rule 1022(a)(1)(B).

¹⁴ Back-office personnel that are functioning as Operations Professionals as set forth in FINRA Rule 1230(b)(6) are subject to the Operations Professional registration requirement.

¹⁵ In 2007, FINRA filed with the SEC a similar proposed rule change. The proposed rule change was not published for comment in the **Federal Register**. See SR-FINRA-2007-004. FINRA withdrew SR-FINRA-2007-004 prior to filing this proposed rule change.

¹⁶ In *Regulatory Notice* 09-70, FINRA referred to such individuals as associated person engaged in a bona fide business purpose of a member.

¹⁷ The original proposal included a subset of FINRA rules to which these individuals would be subject. FINRA believes that the revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their

that an individual pass an appropriate qualification examination before his or her registration as a representative or principal can become effective. Incorporated NYSE Rule 345.15(1)(a) includes a substantially similar requirement. FINRA is proposing to consolidate these provisions and adopt them as FINRA Rule 1210.03.

In addition, as noted above, FINRA is proposing to adopt a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the SIE) and a specialized knowledge examination¹⁹ appropriate to their job functions at the firm with which they are associating. Therefore, proposed FINRA Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed FINRA Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed FINRA Rule 1220.²⁰ Proposed FINRA Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed FINRA Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed FINRA Rule 1220.

Further, proposed FINRA Rule 1210.03 provides that if a registered person's job functions change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.

Moreover, proposed FINRA Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed FINRA Rule 1210.03 also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA believes that expanding the

pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed FINRA Rule 1210.03, passing the SIE alone would not qualify them for registration with FINRA. Rather, to be eligible for registration with FINRA, an individual must pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, "Knowledge of Capital Markets," focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, "Understanding Products and Their Risks," covers securities products at a high level as well as associated investment risks. The third, "Understanding Trading, Customer Accounts and Prohibited Activities," focuses on accounts, orders, settlement and prohibited activities. The final area, "Overview of the Regulatory Framework," encompasses topics such as SROs, registration requirements and specified conduct rules. FINRA is anticipating that the SIE would include 75 scored questions plus an additional 10 unscored pretest questions.²¹ The passing score would be determined through methodologies compliant with testing industry standards used to develop examinations and set passing standards.

The current FINRA representative-level examination program consists of 16 examinations (Series 6, 7, 11, 17, 22, 37, 38, 42, 57, 62, 72, 79, 82, 86, 87 and

99). As described in greater detail below, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canadian Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative as well as the associated examinations, the Series 11, Series 17, Series 37, Series 38, Series 42, Series 62 and Series 72, respectively. In addition, FINRA is proposing to revise the remaining representative-level qualification examinations, which include the Series 6, Series 7, Series 22, Series 57, Series 79, Series 82, Series 86, Series 87 and Series 99, to develop specialized knowledge examinations.

FINRA is consulting with committees of industry subject matter experts to develop the content of the specialized knowledge examinations, which would exclude the content covered on the SIE. FINRA will file the SIE and the specialized knowledge examinations, including the content outlines for each examination, with the SEC separately.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the effective date of the proposed rule change, a previously unregistered individual registering as a Direct Participation Programs Representative for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Direct Participation Programs Representative may engage under current NASD Rule 1032(c).

The table below illustrates the proposed changes to the representative-level examinations, including the anticipated number of questions²² on each specialized knowledge examination, for those representative categories that would be retained under the proposed rule change.

¹⁹ The term "specialized" as used in the proposed rule change is only intended for discussion purposes to identify the proposed representative-level examinations and distinguish them from the current representative-level examinations. FINRA is not proposing to use the term "specialized" in the proposed rule text.

²⁰ Proposed FINRA Rule 1220 sets forth each registration category and applicable qualification examination.

²¹ Pretest questions are designed to ensure that new examination items meet acceptable testing standards prior to use for scoring purposes. Consistent with FINRA's current practice, the SIE would include 10 additional, unidentified pretest questions that do not contribute towards the individual's score. Therefore, the SIE actually would consist of 85 questions, 75 of which would be scored. The 10 pretest questions would be randomly distributed throughout the examination.

²² The specified number of questions for each specialized knowledge examination are [sic] estimates. The final number of questions on each examination may slightly vary based on additional work with the respective examination committees. Further, the table does not include the number of pretest questions on each of the listed examinations.

Registration category (and CRD system designation)	Current examination(s)	Proposed examination(s)
Investment Company and Variable Contracts Products Representative (IR). General Securities Representative (GS)	Series 6 (100 questions) Series 7 (250 questions)	SIE (75 questions) + Specialized Series 6 (50 questions). SIE (75 questions) + Specialized Series 7 (125 questions).
Direct Participation Programs Representative (DR). Securities Trader (TD)	Series 22 (100 questions) Series 57 (125 questions)	SIE (75 questions) + Specialized Series 22 (50 questions). SIE (75 questions) + Specialized Series 57 (50 questions).
Investment Banking Representative (IB)	Series 79 (175 questions)	SIE (75 questions) + Specialized Series 79 (75 questions).
Private Securities Offerings Representative (PR). Research Analyst (RS)	Series 82 (100 questions) Series 7 (250 questions) + Series 86 (Part I: Analysis) (100 questions) + Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions).	SIE (75 questions) + Specialized Series 82 (50 questions). SIE (75 questions) + Specialized Series 86 (Part I: Analysis) (100 questions) + Specialized Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions).
Operations Professional (OS)	Series 99 (100 questions)	SIE (75 questions) + Specialized Series 99 (50 questions).

As noted in the table, FINRA is anticipating that the number of questions on each specialized knowledge examination would be equal to or shorter than the current qualification examination that it would replace. For example, the specialized Series 7 examination for General Securities Representatives would include 125 questions instead of the 250 questions on the current Series 7 examination, and the specialized Series 6 examination for Investment Company and Variable Contracts Products Representatives would include 50 questions instead of the 100 questions on the current Series 6 examination. However, the total number of questions on the SIE plus the applicable specialized knowledge examination could be fewer or greater than the number of questions on the current examinations.

As discussed below, FINRA is also proposing to eliminate the current prerequisite registration requirement for Research Analysts. An individual seeking registration as a Research Analyst would no longer be required to first register as a General Securities Representative as currently required. Instead, such individuals would need to pass the SIE and corresponding specialized knowledge examination for Research Analyst, which, as reflected in the table above, would decrease from 400 questions to 225 questions the total number of questions for individuals registering as Research Analysts.

Moreover, under the proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of questions because the SIE content would be tested only once. For example, an individual who seeks registration as

a General Securities Representative and an Investment Banking Representative today would take two examinations, the Series 7 and Series 79, totaling 425 questions. Under the proposed structure, an individual who seeks registration in the same categories would take the SIE, the specialized Series 7 examination and the specialized Series 79 examination, totaling 275 questions.

Individuals who are registered on the effective date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to the effective date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they re-register with FINRA within two years from the date of their last registration. Further, such individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the effective date of the proposed rule change, they could do so by taking only the appropriate specialized knowledge examination.²³ However, with respect to

²³ As noted above, FINRA is evaluating the structure of the principal-level examinations. Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this

an individual who is not registered on the effective date of the proposed rule change but was registered within the past two years prior to the effective date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register with FINRA within four years from the date of the individual's last registration.²⁴

In addition, individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the effective date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register with FINRA within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated.

Subject to Commission approval and the timing of such approval, FINRA intends to implement the revised structure in March 2018. Similar to the current process for registration, firms would continue to use the CRD system to request registrations for representatives. An individual would be able to schedule both the SIE and

individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

²⁴ As discussed below, FINRA is proposing a four-year expiration period for the SIE.

specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Further, FINRA is proposing to create an enrollment system separate from the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to be registered with FINRA. The enrollment system would provide individuals using the system with documentation (either in paper or electronic format) of a passing or failing result.

A firm would be able to obtain SIE results for associated persons who are registering as representatives through the CRD system. In addition, a firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. The CRD system would also automatically obtain an individual's SIE results once a firm submits a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and requests a registration for that individual.

FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file the examination fees with the SEC separately.

Finally, paragraph (d) of NASD Rule 1070 currently permits FINRA, in exceptional cases and where good cause is shown, to waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. The Incorporated NYSE rules include substantially similar provisions.²⁵ FINRA is proposing to transfer the provisions of NASD Rule 1070(d) into proposed FINRA Rule 1210.03 with the following changes.²⁶ The proposed rule provides that FINRA will only consider examination waiver requests submitted by a firm for individuals associated with the firm who are seeking registration in a representative- or principal-level registration category. Moreover, proposed FINRA Rule 1210.03 states

that FINRA will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals. FINRA would not consider a waiver of the SIE for non-associated persons or for associated persons who are not registering as representatives or principals.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

NASD Rule 1021(d) provides that a person who is currently registered with a member as a representative and whose duties are changed by the member so as to require registration as a principal may function as a principal for up to 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. In addition, it allows a formerly registered representative who is required to register as a principal to function as a principal without passing the appropriate principal qualification examination for up to 90 calendar days, provided the person first satisfies all applicable prerequisite requirements. A person who has never been registered does not qualify for this exception.

FINRA is proposing to adopt NASD Rule 1021(d) as FINRA Rule 1210.04, subject to the following changes. Proposed FINRA Rule 1210.04 states that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a limited period, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. This change is intended to ensure that representatives designated to function as principals for the limited period under the proposed rule have an appropriate level of registered representative experience. The proposed rule clarifies that the requirements of the rule apply to designations to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.²⁷

The proposed rule also clarifies that the individual must fulfill all applicable

prerequisite registration, fee and examination requirements before his or her designation as a principal. Further, the proposed rule extends the limited period that such person may function as a principal before passing the applicable principal examination from 90 calendar days to 120 calendar days (because the current window in the CRD system for passing an examination is 120 calendar days). A person registered as an Order Processing Assistant Representative or a Foreign Associate would be prohibited from functioning as a principal for purposes of proposed FINRA Rule 1210.04 because of the very limited scope of his or her activities. The proposed rule also provides an exception to the experience requirement for principals who are designated by members to function in other principal categories for a limited period. Specifically, the proposed rule states that a member may designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for 120 calendar days before passing any applicable examinations. Finally, the proposed rule clarifies that members that lose their sole Registered Options Principal are subject to separate requirements set forth in proposed FINRA Rule 1220.03.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed FINRA Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualifications examination, FINRA's Sanction Guidelines recommend a bar.²⁸

FINRA is proposing to codify the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA is also proposing

²⁵ See Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01.

²⁶ NASD Rules 1070(a), (b) and (c) provide general information relating to the examination process. FINRA is proposing to delete these provisions given that they relate to the administration of the examination program rather than rule requirements.

²⁷ In this regard, FINRA notes that, as is currently the case, qualifying as a registered representative is a prerequisite to qualifying as a principal except with respect to the following principal-level registrations: (1) Compliance Official; (2) Supervisory Analyst; (3) Financial and Operations Principal; and (4) Introducing Broker-Dealer Financial and Operations Principal.

²⁸ See FINRA Sanction Guidelines at 40 (2013), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

to adopt Rules of Conduct for taking the SIE for associated persons and non-associated persons who take the SIE. Specifically, proposed FINRA Rule 1210.05 states that associated persons taking the SIE would be subject to the SIE Rules of Conduct, and associated persons taking a representative or principal examination would be subject to the Rules of Conduct for representative and principal examinations. Pursuant to proposed FINRA Rule 1210.05, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of FINRA Rule 2010. Moreover, if FINRA determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by FINRA.

Further, the proposed rule states that individuals taking the SIE who are not associated persons must agree to be subject to the SIE Rules of Conduct. Among other things, the SIE Rules of Conduct would require individuals to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and would prohibit individuals from cheating on the examination or misrepresenting their qualifications to the public subsequent to passing the SIE. Moreover, non-associated persons may forfeit their SIE results and may be prohibited from retaking the SIE if FINRA determines that they cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE. In addition, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA would refer the matter to the appropriate authorities or regulators.

NASD Rule 1080 currently requires that qualification examinations content be kept confidential and addresses the disciplinary implications of violating the confidentiality provision.²⁹ FINRA is proposing to transfer the provisions of NASD Rule 1080 with non-substantive changes into proposed FINRA Rule 1210.05.

²⁹ See also NYSE Information Memorandum 88-37 (November 1988).

G. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

NASD Rule 1070(e) currently sets forth waiting periods for retaking failed examinations.³⁰ The rule provides that a person who fails a qualification examination would be permitted to retake the examination after either a period of 30 calendar days has elapsed from the date of the prior examination or the next administration of an examination administered on a monthly basis. However, if the person fails an examination three or more times in succession, he or she would be prohibited from retaking the examination either until a period of 180 calendar days has elapsed from the date of his or her last attempt to pass the examination or until the sixth subsequent administration of an examination administered on a monthly basis. FINRA is proposing to adopt NASD Rule 1070(e) as FINRA Rule 1210.06, with the following changes.

Proposed FINRA Rule 1210.06 provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination. The proposed rule deletes the reference to examinations administered on a monthly basis because examinations are no longer administered in such a manner.

Proposed FINRA Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations. Moreover, the proposed rule provides that non-associated persons taking the SIE must agree to be subject to the same waiting periods for retaking the SIE.

H. CE Requirements (Proposed FINRA Rule 1210.07)

Pursuant to FINRA Rule 1250,³¹ the CE requirements applicable to registered persons consist of a Regulatory Element³² and a Firm Element.³³ The Regulatory Element applies to registered persons and must be completed within

³⁰ See also NYSE Information Memorandum 04-16 (March 2004).

³¹ As discussed below, FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 as part of this proposed rule change.

³² See FINRA Rule 1250(a).

³³ See FINRA Rule 1250(b).

prescribed time frames.³⁴ For purposes of the Regulatory Element, a "registered person" is defined as any person registered with FINRA as a representative, principal, assistant representative or research analyst.³⁵ The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term "covered registered persons" is defined as any registered person who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an Operations Professional pursuant to FINRA Rule 1230(b)(6) or as a Research Analyst pursuant to NASD Rule 1050, and the immediate supervisors of such persons.³⁶

FINRA believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, FINRA is proposing to adopt FINRA Rule 1210.07 to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed FINRA Rule 1240. FINRA is making corresponding changes to proposed FINRA Rule 1240. FINRA is not proposing any changes to the Firm Element requirement at this time. Individuals who have passed the SIE but not a representative- or principal-

³⁴ Pursuant to FINRA Rule 1250(a), each specified registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. A registered person who has not completed the Regulatory Element program within the prescribed time frames will have his or her FINRA registrations deemed inactive and designated as "CE inactive" on the CRD system until such time as the requirements of the program have been satisfied. A CE inactive person is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. See also *NTM 95-35* (May 1995). Moreover, if a registered person is CE inactive for a two-year period, FINRA will administratively terminate the person's registration status with FINRA. The two-year period would be calculated from the date the person becomes CE inactive. If a registered person becomes CE inactive but is not registered with a member when the two-year period ends, FINRA will nevertheless update the CRD system to reflect that the person did not satisfy the Regulatory Element program. In either case, such person must requalify (or obtain a waiver of the applicable qualification examination(s)) to be re-eligible for registration.

³⁵ See FINRA Rule 1250(a)(5).

³⁶ See FINRA Rule 1250(b)(1).

level examination and do not hold a registered position would not be subject to any CE requirements.

Consistent with current practice, proposed FINRA Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

I. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

NASD Rule 1021(c) currently states that any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for principals appropriate to the category of registration as specified in NASD Rule 1022. Pursuant to NASD Rule 1031(c), any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a representative or principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for representatives appropriate to the category of registration as specified in NASD Rule 1032.³⁷ The two years are calculated from the termination date stated on the individual's Form U5 (Uniform Termination Notice for Securities Industry Registration) and the date FINRA receives a new application for registration.

FINRA is proposing to consolidate the requirements of NASD Rules 1021(c) and 1031(c) and adopt them as FINRA Rule 1210.08. Proposed FINRA Rule 1210.08 clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by FINRA if that application does not result in a registration.

Proposed FINRA Rule 1210.08 also sets forth the expiration period of the

SIE. Based on the content covered on the SIE, FINRA is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become an associated person of a firm and pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the effective date of the proposed rule change would have up to four years to reassociate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two-year expiration period as is the case today. However, in response to comments, FINRA will consider as part of a separate proposal the possibility of extending the two-year expiration period, provided that an individual can maintain specified levels of competence and knowledge of the industry and the related laws, rules and regulations through an alternative process, such as more frequent CE.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

In *Regulatory Notice* 09–70, FINRA had proposed to adopt an RA status in the CRD system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Specifically, the original proposal permitted a member to register or maintain the registration(s) as a representative or principal of any individual engaged in the business of a financial services industry affiliate of the member that controls, is controlled by or is under common control with the member. The proposal defined the term “financial services industry” as any industry regulated by the SEC, Commodity

Futures Trading Commission (“CFTC”), state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

The original proposal required members to notify FINRA of an individual's RA status and deemed an RA to have an inactive registration. Further, under the proposal, RAs were considered registered persons, but were subject only to a subset of FINRA rules. The proposal also required a member to supervise adequately RAs so that they did not act on behalf of the member and complied with the subset of rules applicable to them. The proposal provided that an individual could remain in an RA status for 10 non-consecutive years, which were tolled if the individual was working for the member or was outside the financial services industry. In addition, the proposal provided that a statutorily disqualified individual was not eligible for an RA status, and forfeited his or her status as a result of such disqualification. Moreover, under the proposal, the failure to comply with any of the RA requirements resulted in a forfeiture of an individual's RA status altogether.

The purpose of the RA proposal was to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they could gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.³⁸

Rather than allowing individuals to maintain their registrations based on an RA status, FINRA is proposing to adopt FINRA Rule 1210.09 to provide an alternative process whereby individuals who would be working for a financial services industry affiliate of a member³⁹ would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a

³⁸ As noted above, an individual must requalify by examination (or obtain a waiver of the applicable qualification examination(s)) if the individual re-registers with a firm two or more years after the individual's most recent registration as a representative or principal has been terminated.

³⁹ Proposed FINRA Rule 1210.09 defines a “financial services industry affiliate of a member” as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities, which is similar to the definition in *Regulatory Notice* 09–70.

³⁷ In addition, NASD Rule 1041(c) provides that if any person whose most recent registration as an Order Processing Assistant Representative has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for Order Processing Assistant Representative. As discussed below, FINRA is proposing to eliminate NASD Rule 1041(c) as part of the elimination of the Order Processing Assistant Representative registration category.

member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate (“FSA”) waiver.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member with which the individual is registered would notify FINRA of the FSA designation. The member would concurrently file a full Form U5 terminating the individual’s registration with the firm, which would also terminate the individual’s other SRO and state registrations. Further, BrokerCheck would reflect that the individual is no longer registered or associated with a member.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member. An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation,⁴⁰ provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.⁴¹

⁴⁰ Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

⁴¹ The following examples illustrate this point:

Example 1. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A’s financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A’s financial services affiliate for three years, the individual directly joins Firm B’s financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A’s financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A’s financial services affiliate for three years. Firm A then submits a waiver request to re-register the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual rejoins

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (*i.e.*, the individual would have the standard two-year period after termination to re-register without having to retake an examination). FINRA is making corresponding changes to proposed FINRA Rule 1240.

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request to FINRA,⁴² similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. FINRA would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. FINRA would summarily grant the request if the following conditions are met:

(1) Prior to the individual’s initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual’s initial designation as an FSA-eligible person by a member;

(3) The initial designation and any subsequent designation(s) were made concurrently with the filing of the individual’s related Form U5;

(4) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

Firm A’s financial services affiliate for two years, after which the individual directly joins Firm B’s financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A’s financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

⁴² FINRA would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

(5) The individual has complied with the Regulatory Element of CE; and

(6) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.⁴³ An individual who has been designated as an FSA-eligible person by a member would not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed FINRA Rule 1210.10)

NASD IM–1000–2(a) and (b) and Incorporated NYSE Rule Interpretation 345(a)/03, which is substantially similar, currently provide specific relief to registered persons serving in the Armed Forces of the United States. Among other things, these rules permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be registered in an inactive status and remain eligible to receive ongoing transaction-related compensation. NASD IM–1000–2(c) also includes specific provisions regarding the deferment of the lapse of registration requirements in NASD Rules 1021(c), 1031(c) and 1041(c) for formerly registered persons serving in the Armed Forces of the United States.

FINRA is proposing to adopt NASD IM–1000–2 as FINRA Rule 1210.10 with the following changes. To enhance the efficiency of the current notification process for registered persons serving in the Armed Forces, proposed FINRA Rule 1210.10 requires that the member with which such person is registered promptly notify FINRA of such person’s

⁴³ For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

return to employment with the member. A sole proprietor must similarly notify FINRA of his or her return to participation in the investment banking or securities business. Further, proposed FINRA Rule 1210.10 provides that FINRA would also defer the lapse of the SIE for formerly registered persons serving in the Armed Forces of the United States.

L. Impermissible Registrations (Proposed FINRA Rule 1210.11)

NASD Rules 1021(a) and 1031(a) currently prohibit a member from maintaining a representative or principal registration with FINRA for any person who is no longer active in the member's investment banking or securities business, who is no longer functioning as a representative or principal as defined under the rules or where the sole purpose is to avoid the requalification requirement applicable to persons who have not been registered for two or more years. These rules also prohibit a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its investment banking or securities business. These prohibitions do not apply to the current permissive registration categories.

In light of proposed FINRA Rule 1210.02, FINRA is proposing to delete these provisions and instead adopt FINRA Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is consistent with the requirements of proposed FINRA Rule 1210.

M. Registration Categories (Proposed FINRA Rule 1220)

FINRA is proposing to integrate the various registration categories and related definitions under the NASD rules into a single rule, FINRA Rule 1220,⁴⁴ subject to the changes described below.

1. Definition of Principal (Proposed FINRA Rule 1220(a)(1))

NASD Rule 1021(b) currently defines the term "principal" to include sole proprietors, officers, partners, managers of offices of supervisory jurisdiction and directors who are actively engaged in the management of the member's investment banking or securities business, such as supervision, solicitation, conduct of business or the training of persons associated with a

member for any of these functions. Incorporated NYSE Rule 311.17 defines the term "principal executive" to include associated persons designated to exercise senior principal executive responsibility over the various areas of the member's business, such as operations, compliance, finances and credit, sales, underwriting, research and administration.⁴⁵

FINRA believes that the definition of the term "principal" in NASD Rule 1021(b) generally captures principal executives as defined under Incorporated NYSE Rule 311.17. Thus, FINRA is proposing to streamline and adopt NASD Rule 1021(b) as FINRA Rule 1220(a)(1).

Proposed FINRA Rule 1220(a)(1) clarifies that a member's chief executive officer ("CEO") and chief financial officer ("CFO") (or equivalent officers) are considered principals based solely on their status. The proposed rule further clarifies that the term "principal" includes any other associated person who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under FINRA rules. In addition, the proposed rule codifies existing guidance by providing that the phrase "actively engaged in the management of the member's investment banking or securities business" includes the management of, and the implementation of corporate policies related to, such business as well as managerial decision-making authority with respect to the member's business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.⁴⁶

2. General Securities Principal (Proposed FINRA Rule 1220(a)(2))

NASD Rule 1022(a)(1) currently requires that an associated person who meets the definition of "principal" under NASD Rule 1021 register as a General Securities Principal. A person registering as a General Securities Principal must pass the General Securities Principal examination. The rule, however, provides that a principal is not required to register as a General Securities Principal if the person's activities are so limited as to qualify such person for one or more of the limited principal categories specified in NASD Rule 1022, such as a Financial

and Operations Principal, an Introducing Broker-Dealer Financial and Operations Principal, a Registered Options Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal, a General Securities Sales Supervisor or a Government Securities Principal. Further, the rule does not preclude individuals registered in a limited principal category from registering as General Securities Principals.

NASD Rule 1022(a)(1) also requires that a member's CCO designated on Schedule A of the member's Form BD (Uniform Application for Broker-Dealer Registration) register as a General Securities Principal.⁴⁷ NASD Rule 1022(a)(1)(C) provides that if a member's activities are limited to investment company and variable contracts products, direct participation program securities or government securities, the member's CCO may instead register as an Investment Company and Variable Contracts Principal, a Direct Participation Programs Principal or a Government Securities Principal, respectively. In addition, for purposes of the CCO requirement for dual members, FINRA recognizes the NYSE Compliance Official examination as an acceptable alternative to the principal examination requirements for General Securities Principal, Investment Company and Variable Contracts Principal and Direct Participation Programs Principal, as applicable.⁴⁸ NASD Rule 1022(a)(1)(C) also includes transitioning and grandfathering provisions for CCOs.

NASD Rule 1022(a)(1)(A) provides that unless stated otherwise a person seeking to register as a General Securities Principal must satisfy the General Securities Representative or Corporate Securities Representative prerequisite registration. NASD Rule 1022(a)(2) qualifies this provision by providing that the Corporate Securities Representative prerequisite registration gives a General Securities Principal only limited supervisory authority.

NASD Rule 1022(a)(1)(B) requires that a General Securities Principal with responsibility over the investment banking activities specified in NASD Rule 1032(i) also satisfy the Investment Banking Representative registration requirement.

NASD Rule 1022(a)(3) includes a grandfathering provision for persons who were registered as principals before the adoption of the General Securities Principal registration category.

⁴⁴ FINRA is proposing to renumber FINRA Rule 1230 as FINRA Rule 1220 as part of the proposed rule change.

⁴⁵ Incorporated NYSE Rule Interpretation 311(b)(5)/01 requires that principal executives be appropriately qualified to perform their assigned functions.

⁴⁶ See *NTM* 99-49 (June 1999).

⁴⁷ See also FINRA Rule 3130(a).

⁴⁸ See *NTM* 01-51 (August 2001).

NASD Rule 1022(a)(4) provides that an associated person registered solely as a General Securities Principal is not qualified to function as a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), Registered Options Principal, General Securities Sales Supervisor, Municipal Securities Principal or Municipal Fund Securities Limited Principal, unless the General Securities Principal is also registered in these other categories.

Pursuant to NASD Rule 1022(a)(5), a principal who is responsible for supervising the overall conduct of a Research Analyst or Supervisory Analyst engaged in equity research must be registered as a Research Principal.⁴⁹ In addition, existing rules and guidance provide that the content of a member's research reports on equity securities must be approved by a Research Principal or a Supervisory Analyst.⁵⁰ Existing guidance further provides that a General Securities Principal may review a member's research reports on equity securities for compliance with only the disclosure provisions of FINRA Rule 2241.⁵¹

NASD Rule 1022(a)(6) currently requires that each associated person who is included within the definition of "principal" in NASD Rule 1021 with supervisory responsibility over the securities trading activities described in NASD Rule 1032(f) register as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an individual must be registered as a Securities Trader and pass the General Securities Principal qualification examination. The rule provides that a person qualified and registered as a Securities Trader Principal may only have supervisory responsibility over the activities specified in NASD Rule 1032(f), unless such person is separately registered in another appropriate principal registration category, such as the General Securities Principal registration category. The rule further provides that a person registered as a General Securities Principal is not qualified to supervise the trading activities described in NASD Rule 1032(f), unless

he or she qualifies and registers as a Securities Trader (by passing the Series 57 examination) and affirmatively registers as a Securities Trader Principal.

FINRA is proposing to streamline the provisions of NASD Rule 1022(a) and adopt them as FINRA Rule 1220(a)(2) with the following changes.

FINRA is proposing to more clearly set forth the obligation to register as a General Securities Principal. Specifically, proposed FINRA Rule 1220(a)(2)(A) states that each principal as defined in proposed FINRA Rule 1220(a)(1) is required to register with FINRA as a General Securities Principal, subject to the following exceptions. The proposed rule provides that if a principal's activities include the functions of a Compliance Officer, a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, an Investment Banking Principal, a Research Principal, a Securities Trader Principal or a Registered Options Principal, then the principal must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(a)(2)(A) also provides that if a principal's activities are limited solely to the functions of a Government Securities Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal or a Private Securities Offerings Principal, then the principal may appropriately register in one or more of these categories in lieu of registering as a General Securities Principal.

Proposed FINRA Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she must register as a General Securities Sales Supervisor or Registered Options Principal. In addition, proposed FINRA Rule 1220(a)(2)(A) states that if a principal's activities are limited solely to the functions of a Supervisory Analyst, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is responsible for approving the content of a member's research report on equity securities, he or she must register as a Research Principal or Supervisory Analyst.

Proposed FINRA Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. Proposed FINRA Rule 1220(a)(2)(B) also clarifies that an individual may register as a General Securities Sales Supervisor and pass the General Securities Principal Sales Supervisor Module qualification examination in lieu of passing the General Securities Principal examination.

In conjunction with the elimination of the Corporate Securities Representative registration category, FINRA is proposing to delete the provision in NASD Rule 1022(a)(1)(A) permitting the Corporate Securities Representative prerequisite registration. However, the proposed rule provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration in lieu of the General Securities Representative prerequisite registration and individuals who had been registered as such within the past two years prior to the effective date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.

Moreover, as described in greater detail below, FINRA is proposing to adopt with some changes the requirements of NASD Rule 1022(a)(1) relating to the registration of CCOs, NASD Rule 1022(a)(1)(B) relating to the supervision of investment banking activities, NASD Rule 1022(a)(5) relating to the supervision of research activities and NASD Rule 1022(a)(6) relating to the supervision of securities trading activities as FINRA Rules 1220(a)(3), (a)(5), (a)(6) and (a)(7), respectively.

FINRA is also proposing to eliminate the grandfathering provision for individuals who were registered as principals prior to the adoption of the General Securities Principal registration category because it no longer has any practical application. Finally, FINRA is proposing to delete the provision that persons eligible for registration in other principal categories are not precluded from registering as General Securities Principals because it is superfluous.

3. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

FINRA is proposing to adopt NASD Rule 1022(a)(1)'s CCO registration requirement as FINRA Rule 1220(a)(3), subject to the following changes.

⁴⁹ See also *NTM 04–81* (November 2004) and *NTM 07–04* (January 2007) (collectively, "Research NTMs").

⁵⁰ See FINRA Rule 2210(b)(1)(B) and Research NTMs. Further, an exemption from NASD Rule 1050 for specified foreign analysts includes a condition that the content of a globally branded research report prepared by such foreign research analyst that is published or otherwise distributed by a member must be approved by a Research Principal or Supervisory Analyst. See NASD Rule 1050(f)(3)(A).

⁵¹ See Research NTMs.

Specifically, proposed FINRA Rule 1220(a)(3) establishes a Compliance Officer registration category and requires all persons designated as CCOs on Schedule A of Form BD to register as Compliance Officers, subject to an exception for members engaged in limited investment banking or securities business. The proposed rule only addresses the registration requirements for CCOs. However, consistent with proposed FINRA Rule 1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

FINRA had originally proposed to also adopt a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers. However, FINRA is proposing to maintain the existing qualification requirements pending its evaluation of the structure of the principal-level examinations. In addition, FINRA is proposing to provide CCOs of firms that engage in limited investment banking or securities business with greater flexibility to satisfy the qualification requirements for CCOs. Specifically, proposed FINRA Rule 1220(a)(3) sets forth the following qualification requirements for Compliance Officer registration:

- Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, each person registered with FINRA as a General Securities Representative and a General Securities Principal on the effective date of the proposed rule change and each person who was registered with FINRA as a General Securities Representative and a General Securities Principal within two years prior to the effective date of the proposed rule change would be qualified to register as Compliance Officers without having to take any additional examinations. In addition, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change would also be qualified to register as Compliance Officers without having to take any additional examinations;⁵²

- All other individuals registering as Compliance Officers after the effective date of the proposed rule change would have to: (1) Satisfy the General

Securities Representative prerequisite registration and pass the General Securities Principal qualification examination; or (2) pass the Compliance Official qualification examination.

- An individual designated as a CCO on Schedule A of Form BD of a member that is engaged in limited investment banking or securities business may be registered in a principal category under proposed FINRA Rule 1220(a) that corresponds to the limited scope of the member's business.

4. Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

NASD Rule 1022(b) currently provides that a principal who is responsible for the financial and operational management of a member that has a minimum net capital requirement of \$250,000 under SEA Rules 15c3-1(a)(1)(ii) and 15c3-1(a)(2)(i), or a member that has a minimum net capital requirement of \$150,000 under SEA Rule 15c3-1(a)(8), must be designated and registered as a Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal. In addition, NASD Rule 1022(c) currently provides that a principal who is responsible for the financial and operational management of a member that is subject to the net capital requirements of SEA Rule 15c3-1, other than a member that is subject to the net capital requirements of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), must be designated and registered as either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals are not subject to a prerequisite representative registration, but they must pass the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal examination, as applicable.

Incorporated NYSE Rule Interpretations 311(b)(5)/02 and/03 require that dual members designate a CFO and a COO and that the CFO and the COO register as Financial and Operations Principals if the member is a clearing firm, or as either Financial

and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals if the member is an introducing firm. If the member is an introducing firm, the same person may be designated as both the CFO and COO.

FINRA is proposing to merge the provisions in NASD Rules 1022(b) and 1022(c) regarding Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals and adopt them as FINRA Rule 1220(a)(4)(A). In addition, FINRA is proposing to revise the provisions in NASD Rules 1022(b) and (c) regarding the designation of CFOs and the provisions in Incorporated NYSE Rule Interpretations 311(b)(5)/02 and/03 regarding the designation of CFOs and COOs and adopt them as FINRA Rule 1220(a)(4)(B). FINRA does not believe it is necessary for an officer to have the title of CFO or COO for purposes of these provisions so long as the designated person performs the same functions. Therefore, proposed FINRA Rule 1220(a)(4)(B) requires members to instead designate: (1) A Principal Financial Officer with primary responsibility for financial filings and the related books and records; and (2) a Principal Operations Officer with primary responsibility for the day-to-day operations of the business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and firm assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Consistent with the current qualification and registration requirements for CFOs and COOs, the proposed rule requires that a firm's Principal Financial Officer and Principal Operations Officer qualify and register as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, as applicable.⁵³

Because the financial and operational activities of members that neither self-clear nor provide clearing services are more limited, such members may designate the same person as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal (that is, such members are not

⁵² FINRA notes that the proposed rule gives firms the option of registering Compliance Officials who are not designated as CCOs as Compliance Officers when the proposed rule becomes effective.

⁵³ This requirement also applies to those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. See *NTM* 01-52 (August 2001).

required to designate different persons to function in these capacities).

Given the level of financial and operational responsibility at clearing and self-clearing members, FINRA believes that it is necessary for such members to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal, such as supervision of individuals engaged in financial and operational activities. In addition, the proposed rule provides that a clearing or self-clearing member that is limited in size and resources may, pursuant to the FINRA Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

5. Investment Banking Principal (Proposed FINRA Rule 1220(a)(5))

FINRA is proposing to adopt NASD Rule 1022(a)(1)(B) regarding the qualification and registration requirements for principals with responsibility over specified investment banking activities as FINRA Rule 1220(a)(5). To further facilitate the registration of such individuals, proposed FINRA Rule 1220(a)(5) establishes a registration category for Investment Banking Principal and requires that a principal responsible for supervising the investment banking activities specified in proposed FINRA Rule 1220(b)(5) register as an Investment Banking Principal. The proposed rule provides that individuals registering as Investment Banking Principals must be registered as Investment Banking Representatives and pass the General Securities Principal qualification examination.

6. Research Principal (Proposed FINRA Rule 1220(a)(6))

FINRA is proposing to adopt NASD Rule 1022(a)(5) relating to the registration of Research Principals as FINRA Rule 1220(a)(6) with a few changes and clarifications.

First, proposed FINRA Rule 1220(a)(6) clarifies that a principal responsible for approving the content of a member's research reports on equity securities is required to register as a Research Principal, subject to the following exceptions: (1) A Supervisory Analyst may also approve the content of a member's research report on equity securities; and (2) a General Securities Principal may review a member's research report on equity securities only

for compliance with the disclosure provisions of FINRA Rule 2241.

Second, the proposed rule clarifies that a Supervisory Analyst or General Securities Principal may approve the content of a member's research reports on debt securities⁵⁴ and the content of third-party research reports⁵⁵ in lieu of a Research Principal.

Third, the proposed rule modifies the examination requirements for Research Principals to require demonstrated competence in fundamental analysis and valuation of securities. By way of background, Research Analysts are required to pass the Series 86 and Series 87 examinations.⁵⁶ The Analysis (Series 86) portion of the Research Analyst examination tests knowledge of fundamental analysis and valuation of equity securities and the Regulatory Administration and Best Practices (Series 87) portion of the Research Analyst examination tests knowledge of applicable rules and regulations pertaining to research. The qualification examination for Supervisory Analysts, the Series 16 examination, tests both knowledge of applicable rules and regulations and fundamental analysis and valuation. Currently, a Research Principal is required to be registered as a General Securities Principal and pass either the Series 87 examination or the Series 16 examination.⁵⁷ FINRA believes that a Research Principal would be able to carry out his or her supervisory responsibilities more effectively by having a level of knowledge of fundamental analysis and valuation commensurate with the research analysts whose content they approve. Thus, proposed FINRA Rule 1220(a)(6) requires that individuals registering as Research Principals after the effective date of the proposed rule change, register as either Research Analysts or Supervisory Analysts and pass the General Securities Principal qualification examination.

7. Securities Trader Principal (Proposed FINRA Rule 1220(a)(7))

FINRA is proposing to adopt NASD Rule 1022(a)(6) relating to Securities

⁵⁴ The proposed rule change maintains the current requirements, which are set forth in other FINRA rules, allowing a Supervisory Analyst to approve the content of debt research reports. See FINRA Rules 2210(b)(1)(A) and (B) (stating that a Supervisory Analyst may approve the content of research reports on debt securities).

⁵⁵ See FINRA Rule 2241(h)(1) and Research NTMs.

⁵⁶ Candidates are eligible for a waiver of the Series 86 examination, which tests knowledge of fundamental analysis and valuation of equity securities, if they have passed Levels I and II of the Chartered Financial Analyst ("CFA") examination and meet other eligibility criteria.

⁵⁷ See Research NTMs.

Trader Principal registration as FINRA Rule 1220(a)(7). Similar to the current rule, proposed FINRA Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed FINRA Rule 1220(b)(4) register as a Securities Trader Principal. The proposed rule requires that individuals registering as Securities Trader Principals must be registered as Securities Traders and pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed FINRA Rules 1220(a)(8), .02 and .03)

NASD Rule 1022(f) currently requires that members engaged in options transactions with the public have at least one Registered Options Principal. A Registered Options Principal is required to satisfy the following prerequisite representative registration(s): (1) General Securities Representative; or (2) Options Representative and Corporate Securities Representative. An individual registering as a Registered Options Principal must also pass the Registered Options Principal examination. The rule includes additional requirements applicable to Registered Options Principals engaged in security futures activities.⁵⁸ NASD IM-1022-1 further requires that members that have one Registered Options Principal promptly notify FINRA and agree to specified conditions if such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform his or her duties.

FINRA is proposing to adopt NASD Rule 1022(f) as FINRA Rule 1220(a)(8) with the following changes. Consistent with FINRA Rule 2360, which allows a General Securities Sales Supervisor (in addition to a Registered Options Principal) to approve accounts engaged in specified options activities, the proposed rule provides that a General Securities Sales Supervisor may also supervise options activities as specified in FINRA Rule 2360.

Further, as discussed below, FINRA is proposing to eliminate the Options Representative and Corporate Securities Representative registration categories. In conjunction with these changes, FINRA is proposing to eliminate registration as an Options Representative and a Corporate Securities Representative

⁵⁸ This provision provides that a Registered Options Principal who intends to engage in security futures activities must complete a Firm Element CE program that addresses security futures products before he or she can engage in such activities. There are similar provisions in NASD Rules 1022(g), 1032(a) and 1032(d).

from the prerequisite choices in the current rule. Consequently, a person registering as a Registered Options Principal under proposed FINRA Rule 1220(a)(8) would be required to satisfy the General Securities Representative prerequisite registration.

FINRA is proposing to consolidate and adopt the provisions regarding security futures activities in NASD Rules 1022(f), 1022(g), 1032(a) and 1032(d) with non-substantive changes as Supplementary Material .02 of FINRA Rule 1220. Finally, FINRA is proposing to adopt NASD IM-1022-1 with non-substantive changes as Supplementary Material .03 of FINRA Rule 1220.

9. Government Securities Principal (Proposed FINRA Rule 1220(a)(9))

NASD Rule 1022(h) currently requires that associated persons functioning as principals with respect to members' government securities activities register as Government Securities Principals. Such persons are not subject to a principal qualification examination. However, a person registering as a Government Securities Principal is required to satisfy the General Securities Representative or Government Securities Representative prerequisite registration. Moreover, individuals registered as General Securities Principals who have the General Securities Representative or Government Securities Representative prerequisite registration are qualified to function as Government Securities Principals without having to register separately as such.

NASD Rule 1022(h) also includes a grandfathering provision for persons who were registered as principals before the 1988 adoption of the Government Securities Principal registration category, and it provides that a firm must notify FINRA via the Form U4 when a person not previously registered with the firm as a principal assumes the duties of a Government Securities Principal. FINRA is proposing to adopt NASD Rule 1022(h) as FINRA Rule 1220(a)(9) with a few changes.

As noted below, FINRA is proposing to eliminate the Government Securities Representative registration category. In conjunction with this change, FINRA is proposing to eliminate registration as a Government Securities Representative from the prerequisite registration choices in the current rule.

Consequently, a person registering as a Government Securities Principal under proposed FINRA Rule 1220(a)(9) would be required to satisfy the General Securities Representative prerequisite registration. Alternatively, proposed FINRA Rule 1220(a)(9) provides that

individuals registered as General Securities Principals are qualified to function as Government Securities Principals without having to register separately under the proposed rule.

Proposed FINRA Rule 1220(a)(9) also eliminates the grandfathering provision in the current rule because it no longer has any practical application, and it eliminates the Form U4 notification requirement because it is redundant of other Form U4 requirements.⁵⁹

10. General Securities Sales Supervisor (Proposed FINRA Rules 1220(a)(10) and 1220.04)

Pursuant to NASD Rule 1022(g), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a General Securities Sales Supervisor, instead of separately registering in multiple principal registration categories,⁶⁰ if the individual's supervisory responsibilities are limited solely to securities sales activities. A person registering as a General Securities Sales Supervisor must satisfy the General Securities Representative prerequisite registration and pass the General Securities Sales Supervisor examinations.⁶¹ Moreover, a General Securities Sales Supervisor is precluded from performing any of the following activities: (1) Supervision of the origination and structuring of underwritings; (2) supervision of market-making commitments; (3) supervision of the custody of firm or customer funds or securities for purposes of SEA Rule 15c3-3; or (4) supervision of overall compliance with financial responsibility rules. NASD IM-1022-2 explains the purpose of the General Securities Sales Supervisor registration category.

FINRA is proposing to adopt NASD Rule 1022(g) and NASD IM-1022-2 as FINRA Rule 1220(a)(10) and FINRA Rule 1220.04, respectively, with non-substantive changes.

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Proposed FINRA Rules 1220(a)(11) and (a)(12))

Pursuant to NASD Rule 1022(d), each associated person of a member who is included within the definition of

"principal" in NASD Rule 1021 may register as an Investment Company and Variable Contracts Products Principal, instead of registering as a General Securities Principal, if the individual's activities are limited solely to the solicitation, purchase or sale of redeemable securities of companies registered under the Investment Company Act of 1940 ("Investment Company Act"), securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. A person registering as an Investment Company and Variable Contracts Products Principal must satisfy the General Securities Representative or Investment Company and Variable Contracts Products Representative prerequisite registration and pass the Investment Company and Variable Contracts Products Principal examination.

Pursuant to NASD Rule 1022(e), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a Direct Participation Programs Principal, instead of registering as a General Securities Principal, if the individual's activities are limited solely to direct participation program securities.⁶² A person registering as a Direct Participation Programs Principal must satisfy the General Securities Representative or Direct Participation Programs Representative prerequisite registration and pass the Direct Participation Programs Principal examination.

FINRA is proposing to adopt NASD Rules 1022(d) and (e) as FINRA Rules 1220(a)(11) and (a)(12), respectively, subject to the following changes. FINRA is proposing to eliminate the securities products listed under the Investment Company and Variable Contracts Products Principal registration category and instead list the products under the Investment Company and Variable Contracts Products Representative registration category. Specifically, proposed FINRA Rule 1220(a)(11) provides that a principal may register as an Investment Company and Variable

⁶² For purposes of the registration rules, a direct participation program is defined as a program that provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution, including, but not limited to, oil and gas programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. Among other things, a real estate investment trust is excluded from the definition of a direct participation program. See NASD Rule 1022(e)(2).

⁵⁹ See Article V, section 2 of the FINRA By-Laws.

⁶⁰ For instance, a principal supervising the sale of corporate securities and options must be registered as a General Securities Principal and a Registered Options Principal, unless the principal is registered as a General Securities Sales Supervisor.

⁶¹ An individual may also register as a General Securities Sales Supervisor by passing a combination of other principal-level examinations.

Contracts Products Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(7). Similarly, FINRA is proposing to transfer the definition of “direct participation program” from the Direct Participation Programs Principal registration category to the Direct Participation Programs Representative registration category. Therefore, proposed FINRA Rule 1220(a)(12) provides that a principal may register as a Direct Participation Programs Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(8).

12. Private Securities Offerings Principal (Proposed FINRA Rule 1220(a)(13))

To provide firms with greater flexibility in designing their supervisory structure, FINRA is proposing to create a limited principal registration category under FINRA Rule 1220(a)(13) for principals whose activities are limited solely to the supervision of the private securities offerings specified in proposed FINRA Rule 1220(b)(9) (current NASD Rule 1032(h)). The proposed change is consistent with the limited registration categories for Investment Company and Variable Contracts Products Principals and Direct Participation Programs Principals. Specifically, under proposed FINRA Rule 1220(a)(13), if a principal’s activities are limited solely to the supervision of the private securities activities specified in proposed FINRA Rule 1220(b)(9), the principal may register as a Private Securities Offerings Principal instead of registering as a General Securities Principal. A person registering as a Private Securities Offerings Principal must satisfy the Private Securities Offerings Representative prerequisite registration and pass the General Securities Principal examination.

13. Supervisory Analyst (Proposed FINRA Rule 1220(a)(14))

The Incorporated NYSE rules currently require that an individual who is responsible for approving research reports register as a Supervisory Analyst.⁶³ Such person is required to present evidence of appropriate experience (at least three years prior experience within the immediately

preceding six years involving securities or financial analysis) and pass the Supervisory Analyst qualification examination. Rather than passing the entire Supervisory Analyst qualification examination, such person may obtain a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the CFA examination. Incorporated NYSE Rule 472(a)(2) further provides that where a Supervisory Analyst lacks technical expertise in a particular product area that is the subject of a research report, the content in the report may be co-approved by a product specialist; if no such expertise resides within the member, the rule requires the member to arrange approval by a qualified outside Supervisory Analyst.

As noted above, pursuant to FINRA rules and existing guidance, a Supervisory Analyst is permitted to approve the content of a member’s research report on equity or debt securities. A Supervisory Analyst is also permitted to approve the content of third-party research reports. However, a Research Principal must supervise the overall conduct of a Supervisory Analyst engaged in equity research.

FINRA is proposing to adopt the provisions in Incorporated NYSE Rule 344 and NYSE Rule Interpretations 344/03 and/04 regarding Supervisory Analysts as FINRA Rule 1220(a)(14) with the following changes. Consistent with existing FINRA rules and guidance, proposed FINRA Rule 1220(a)(14) provides that a principal whose activities are limited to approving the content of a member’s research reports on equity or debt securities or the content of third-party research reports has the option of registering as a Supervisory Analyst instead of registering as a Research Principal or General Securities Principal, as applicable. The proposed rule clarifies that a Supervisory Analyst engaged in equity research must be supervised by a Research Principal. In addition, consistent with FINRA Rule 2210(b)(1)(B), a Supervisory Analyst may approve (1) retail communications as described in FINRA Rule 2241(a)(11)(A); and (2) other research communications that do not meet the definition of a “research report” under FINRA Rule 2241, provided that the Supervisory Analyst has technical expertise in the particular product area.

Unlike the NYSE requirements, proposed FINRA Rule 1220(a)(14) does not require evidence of appropriate experience. FINRA conducts job analysis activities for each examination

program to identify the relevant rules and knowledge that need to be assessed. These activities involve subject matter experts from the industry as well as regulators and are conducted in compliance with testing industry standards for examination development. The resulting information is used to determine an appropriate content outline as well as to establish the appropriate way to assess the identified job, task and rule knowledge. In the case of the Supervisory Analyst examination, FINRA has determined that the requisite knowledge can be assessed adequately by the examination questions and that an experience requirement provides no material improvements to the qualification process. FINRA believes that passing the Supervisory Analyst qualification examination and completing the CE requirements adequately demonstrate the level of competence and knowledge required. This change is consistent with all other FINRA representative- and principal-level registration categories, which do not have an experience requirement. FINRA is also proposing to delete Incorporated NYSE Rule 472(a)(2), which requires that only Supervisory Analysts approve research reports. As described above, under FINRA rules, Supervisory Analysts are permitted to approve research reports, but they are not required to do so. For instance, a member may designate a Research Principal to approve its research reports.

14. Definition of Representative (Proposed FINRA Rule 1220(b)(1))

NASD Rule 1031(b) currently defines the term “representative” as an associated person, including an assistant officer other than a principal, who is engaged in the investment banking or securities business for the member, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

Incorporated NYSE Rule 10 defines the term “registered representative” as an employee of a member engaged in the solicitation or handling of accounts or orders for the purchase or sale of securities, or other similar instruments for the accounts of customers of his or her employer or in the solicitation or handling of business in connection with investment advisory or investment management services furnished on a fee basis by his or her employer.

FINRA believes that the definition of the term “representative” in NASD Rule 1031(b) is more consistent with the functions customarily performed by a registered representative. Therefore,

⁶³ See Incorporated NYSE Rules 344, 344.11 and 472(a)(2) and NYSE Rule Interpretations 344/03 and/04.

FINRA is proposing to adopt NASD Rule 1031(b) as FINRA Rule 1220(b)(1) with non-substantive changes.

15. General Securities Representative (Proposed FINRA Rule 1220(b)(2))

NASD Rule 1032(a)(1) currently requires that an associated person who meets the definition of "representative" under NASD Rule 1031 register as a General Securities Representative. A person registering as a General Securities Representative must pass the General Securities Representative examination.⁶⁴ The rule, however, provides that a representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited representative categories specified in NASD Rule 1032, such as an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative, an Options Representative, a Corporate Securities Representative, a Securities Trader, a Government Securities Representative, a Private Securities Offerings Representative or an Investment Banking Representative. Further, the rule does not preclude individuals registered in a limited representative category from registering as General Securities Representatives.

NASD Rule 1032(a)(2) provides that if a representative does not engage in municipal securities activities, registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative. These foreign registration categories were created in the 1990s as an alternative to General Securities Representative registration for individuals who do not engage in municipal securities activities and who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator. To qualify for registration as a United Kingdom Securities Representative or Canada Securities Representative, an individual must pass the United Kingdom Securities Representative examination or Canada Securities Representative examinations, respectively. NASD Rule 1032(a)(2) also permits a person registered and in good standing as a representative with the Japanese securities regulators to become qualified to function as a General

Securities Representative by passing the Japan Module of the General Securities Representative examination. The Japan Module, however, was never implemented.

NASD Rule 1032(a)(3) provides that an associated person registered solely as a General Securities Representative is not qualified to function as a Registered Options Representative, unless the General Securities Representative is separately qualified and registered as a Registered Options Representative.⁶⁵

The Incorporated NYSE rules also require that a representative register as a General Securities Representative,⁶⁶ unless the representative's activities are so limited as to qualify him or her for one or more of the limited categories of representative registration, such as an Investment Company and Variable Contracts Products Representative or a Direct Participation Programs Representative.⁶⁷ The Incorporated NYSE rules further provide that registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative for those representatives who are not engaged in municipal securities activities.⁶⁸

FINRA is proposing to streamline the provisions of NASD Rule 1032(a) and adopt them as FINRA Rule 1220(b)(2) with the following changes.

Similar to the proposed changes to the General Securities Principal registration category, FINRA is proposing to more clearly set forth the obligation to register as a General Securities Representative. Specifically, proposed FINRA Rule 1220(b)(2)(A) states that each representative as defined in proposed FINRA Rule 1220(b)(1) is required to register with FINRA as a General Securities Representative, subject to the following exceptions. The proposed rule provides that if a representative's activities include the functions of an

Operations Professional, a Securities Trader, an Investment Banking Representative or a Research Analyst, then the representative must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(b)(2)(A) also provides that if a representative's activities are limited solely to the functions of an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative or a Private Securities Offerings Representative, then the representative may appropriately register in one or more of these categories in lieu of registering as a General Securities Representative.

Further, consistent with the proposed restructuring of the representative-level examinations, proposed FINRA Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination.

In addition, as part of the proposed restructuring of the representative-level examinations, FINRA is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, and associated Series 17, Series 37 and Series 38 examinations. Instead, FINRA is proposing to adopt FINRA Rule 1220.01 to provide individuals who are associated persons of firms and hold foreign registrations an alternative, more flexible, process to obtain a FINRA representative-level registration. Based on FINRA's analysis of the relevant United Kingdom and Canadian qualification requirements, FINRA believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed FINRA Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with FINRA as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain a FINRA representative-level registration. For instance, an individual with the appropriate United Kingdom qualification who seeks registration as an Investment Banking Representative today would take the Series 79 examination, totaling 175 questions. Under the proposed rule change, the

⁶⁴ An individual may also register as a General Securities Representative by passing a combination of other representative-level examinations.

⁶⁵ This provision was adopted in 1980 at a time when an associated person had to separately qualify and register as a Registered Options Representative. See Securities Exchange Act Release No. 16936 (June 26, 1980), 45 FR 45441 (July 3, 1980) (Order Approving Proposed Rule Change; File No. SR-NASD-80-1). In 1997, NASD Rule 1032(d) was amended to no longer require associated persons to separately qualify and register as Registered Options Representatives, but there was no corresponding change to NASD Rule 1032(a). See Securities Exchange Act Release No. 38969 (August 25, 1997), 62 FR 46535 (September 3, 1997) (Order Approving Proposed Rule Change; File No. SR-NASD-97-23).

⁶⁶ See Incorporated NYSE Rule 345.10 and .15(2) and NYSE Rule Interpretation 345.15/02.

⁶⁷ See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

⁶⁸ See NYSE Information Memoranda 91-09 (March 1991) and 96-06 (March 1996).

same individual would only take the specialized Series 79 examination, which FINRA is anticipating would have 75 questions.

FINRA is also proposing to delete the provision regarding the Japan Module of the General Securities Representative examination because it was never implemented. Further, FINRA is proposing to delete the provision restricting a General Securities Representative from functioning as a Registered Options Representative as a corresponding change to the 1997 amendment of NASD Rule 1032(d). Finally, FINRA is proposing to delete the provision that persons eligible for registration in other representative categories are not precluded from registering as General Securities Representatives because it is superfluous.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Proposed FINRA Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

FINRA Rule 1230(b)(6) currently requires that specified persons who are engaged in, responsible for or supervising specified covered functions relating to operations register as Operations Professionals. The specified persons are: (1) Senior management with direct responsibility over the covered functions; (2) any person designated by such senior management as a supervisor, manager or other person responsible for approving or authorizing work in direct furtherance of the covered functions; and (3) persons with the authority or discretion materially to commit a firm's capital in direct furtherance of the covered functions or to commit a firm to any material contract or agreement in direct furtherance of the covered functions. Individuals registering as Operations Professionals must pass the Operations Professional examination, unless they hold an eligible registration, such as a General Securities Representative registration. In addition, FINRA Rule 1230(b)(6) includes specified time frames relating to the initial implementation of the rule and allows individuals to function as Operations Professionals for a limited period before having to pass an appropriate qualification examination. FINRA Rule 1230.06 provides that the determination of what constitutes "materially" or

"material" in the third category of specified persons is based on a firm's pre-established spending guidelines and risk management policies. FINRA Rule 1230.06 also provides that any person whose activities are limited to performing a function ancillary to a covered function, or whose function is to serve a role that can be viewed as supportive of or advisory to the performance of a covered function, or who engages solely in clerical or ministerial activities in a covered function is not required to register as an Operations Professional. In addition, FINRA Rule 1230.06 provides an exception from the registration requirements for employees of a foreign broker-dealer who are engaged in specified limited activities.

Pursuant to NASD Rule 1032(f), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 is required to register as a Securities Trader if, with respect to transactions in equity (including equity options), preferred or convertible debt securities effected otherwise than on a securities exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis or the direct supervision of such activities. The rule provides an exception from the registration requirement for any associated person of a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with the member. The rule also requires that associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies (or responsible for the day-to-day supervision or direction of such activities) register as Securities Traders. Individuals registering as Securities Traders must pass the Securities Trader examination.

NASD Rule 1032(i) currently requires that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 and engaged in specified investment banking activities, such as advising on or facilitating debt or equity securities offerings through a private placement or a public offering, register as an Investment Banking Representative. Individuals registering as Investment Banking Representatives must pass the Investment Banking Representative examination. Individuals engaged in investment banking activities relating to direct participation program securities

or private securities offerings as well as individuals engaged in retail or institutional sales and trading activities are not required to register as Investment Banking Representatives. In addition, the rule provides a limited exception from the requirements of the rule for individuals participating in a specified employee training program. NASD Rule 1032(i) also includes an opt-in provision, which allowed General Securities Representatives, Corporate Securities Representatives, United Kingdom Securities Representatives and Canada Securities Representatives who were engaged in investment banking activities covered by the rule to have opted in to the Investment Banking Representative registration category by May 3, 2010.

NASD Rule 1050 currently requires that an associated person whose primary job function is to provide investment research and who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report register as a Research Analyst.⁶⁹ NASD Rule 1050 provides that a person registering as a Research Analyst must satisfy the General Securities Representative prerequisite registration and pass the Research Analyst examinations. The purpose of the current prerequisite registration is to ensure that Research Analysts have general securities knowledge. There is a corresponding requirement under the Incorporated NYSE rules.⁷⁰

Pursuant to NASD Rule 1032(b), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as an Investment Company and Variable Contracts Products Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to redeemable securities of companies registered under the Investment Company Act, securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. Individuals

⁶⁹ NASD Rule 1050 applies only to an associated person whose primary job function is to provide investment research and who is primarily responsible for the preparation of the substance of an equity research report or whose name appears on an equity research report. It does not currently apply to persons who produce debt research reports. See Research Rules Frequently Asked Questions, <http://www.finra.org/industry/faq-research-rules-frequently-asked-questions-faq>.

⁷⁰ See Incorporated NYSE Rules 344, 344.10 and 344.12 and NYSE Rule Interpretations 344/01 and/02.

registering as Investment Company and Variable Contracts Products Representatives must pass the Investment Company and Variable Contracts Products Representative examination. Under NASD Rule 1032(c), each associated person of a member who is included within the definition of “representative” in NASD Rule 1031 may register as a Direct Participation Programs Representative, instead of registering as a General Securities Representative, if the individual’s activities are limited solely to direct participation program securities. Individuals registering as Direct Participation Programs Representatives must pass the Direct Participation Programs Representative examination. The Incorporated NYSE rules include similar limited registration categories.⁷¹

Pursuant to NASD Rule 1032(h), each associated person of a member who is included within the definition of “representative” in NASD Rule 1031 may register as a Private Securities Offerings Representative, instead of registering as a General Securities Representative, if the individual’s activities are limited solely to effecting sales of private placement securities, other than municipal, government or direct participation program securities, as part of a primary offering.⁷² Individuals registering as Private Securities Offerings Representatives must pass the Private Securities Offerings Representative examination. NASD Rule 1032(h) includes a grandfathering provision that provides that any person who engaged in effecting sales of private securities offerings as an employee of a bank from May 12, 1999 to November 12, 1999, may register as a Private Securities Offerings Representative without having to pass the Private Securities Offerings Representative examination.

FINRA is proposing to adopt FINRA Rule 1230(b)(6), NASD Rule 1032(f), NASD Rule 1032(i), NASD Rule 1050, NASD Rule 1032(b), NASD Rule 1032(c) and NASD Rule 1032(h) with a few changes as FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9), respectively. In addition, FINRA is proposing to adopt FINRA Rule 1230.06 as FINRA Rule 1220.05 with non-substantive changes.

Specifically, consistent with the restructuring of the representative-level examinations, proposed FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7),

(b)(8) and (b)(9) would require individuals registering in the respective registration categories to pass the SIE and the applicable representative-level examination(s). With respect to Research Analysts, given that general securities knowledge would be covered on the SIE, FINRA is proposing to replace the General Securities Representative prerequisite registration requirement with the SIE. Therefore, under proposed FINRA Rule 1220(b)(6), individuals registering as Research Analysts would be required to pass the SIE and the Research Analyst examinations. Consistent with existing guidance, FINRA is also proposing to clarify that the scope of FINRA Rule 1220(b)(6) is limited to equity research reports.

As noted above, FINRA is proposing to transfer the securities products listed under the Investment Company and Variable Contracts Products Principal registration category to the Investment Company and Variable Contracts Products Representative registration category. Further, consistent with the registration provisions of Municipal Securities Rulemaking Board (“MSRB”) Rule G-3(a), proposed FINRA Rule 1220(b)(7) clarifies that Investment Company and Variable Contracts Products Representatives are permitted to engage in the solicitation, purchase or sale of municipal fund securities as defined under MSRB Rule D-12. FINRA is also proposing to eliminate the opt-in provision in current NASD Rule 1032(i) and the time frames relating to the initial implementation of the Operations Professional registration category because these periods have passed.

17. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

Pursuant to NASD Rule 1041, an associated person is not required to register as a General Securities Representative or in one or more of the limited categories of representative registration if the person’s activities are so limited as to qualify such person for registration as an Order Processing Assistant Representative. An Order Processing Assistant Representative is an associated person whose only function is to accept unsolicited customer orders (other than orders for municipal securities and direct participation program securities)⁷³ from existing customers for submission for execution by the member. Pursuant to NASD Rule 1042, Order Processing Assistant Representatives are subject to specified restrictions regarding their

activities and compensation and are subject to particular supervisory requirements. In addition, they may not be registered concurrently in any other capacity.

NASD Rule 1032(d) currently provides that each associated person of a member who is included within the definition of “representative” in NASD Rule 1031 may register as an Options Representative, instead of a General Securities Representative, if the individual’s activities are limited solely to options, including option contracts on government securities. Individuals registering as Options Representatives must satisfy the Corporate Securities Representative or Government Securities Representative prerequisite registration and pass the Options Representative examination. The Incorporated NYSE rules require that a “Registered Options Representative,” a representative who transacts business with the public in option contracts, pass the General Securities Representative qualification examination.⁷⁴

NASD Rule 1032(e) currently provides that each associated person of a member who is included within the definition of “representative” in NASD Rule 1031 may register as a Corporate Securities Representative, instead of a General Securities Representative, if the individual’s activities are limited solely to securities as defined under section 3(a)(10) of the Act, other than municipal securities, options, mutual funds (except for money market funds), variable contracts and direct participation program securities. Individuals registering as Corporate Securities Representatives must pass the Corporate Securities Representative examination. NASD Rule 1032(g) provides that each associated person of a member who is included within the definition of “representative” in NASD Rule 1031 may register as a Government Securities Representative, instead of a General Securities Representative, if the individual’s activities are limited solely to government securities as defined in sections 3(a)(42)(A) through (C) of the Act. Individuals registering as Government Securities Representatives must pass the Government Securities Representative examination.

Pursuant to NASD Rule 1100, associated persons registered as Foreign Associates⁷⁵ may function as registered

⁷⁴ See Incorporated NYSE Rules 345.10 and 345.15(4) and NYSE Rule Interpretation 345.15/02.

⁷⁵ To qualify for registration as a Foreign Associate, an associated person: (1) Cannot be a citizen, national, or resident of the United States or any of its territories or possessions; (2) must conduct all of his or her securities activities in areas

⁷¹ See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

⁷² Private Securities Offerings Representatives cannot effect resales of or secondary market transactions in private placement securities.

⁷³ See *NTM* 89-78 (December 1989).

representatives, including acting as traders or registered persons responsible for servicing the accounts of foreign nationals. However, they are exempt from the requirement to pass a qualification examination and are not subject to the Regulatory Element of CE requirements.

The Incorporated NYSE rules currently require that any person who has discretion to commit his or her employer member to any contract or agreement, written or oral, involving securities lending or borrowing activities and the direct supervisor of such person register as a Securities Lending Representative or Securities Lending Supervisor, as applicable.⁷⁶ Such individuals are also required to sign an agreement (representing a form of code of ethics) as an addendum to the Form U4. Such individuals are not required to pass a qualification examination, but they are required to complete the Regulatory Element of the CE requirements. NASD rules currently do not have a specific registration category for associated persons engaged in securities lending activities and in the direct supervision of such activities. Rather, securities lending is a covered function under the Operations Professional registration category.

FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, Options Representative, Corporate Securities Representative, Government Securities Representative and Foreign Associate.⁷⁷ FINRA believes that the utility of the Order Processing Assistant Representative registration category has diminished as technological advances and changes in industry practice have reduced the need for such representatives. As a result, the volume of candidates taking the Order Processing Assistant Representative examination has diminished and today less than 200 firms employ one or more Order Processing Assistant Representatives. The Options

Representative, Corporate Securities Representative and Government Securities Representative registration categories were created over the years as subcategories of the General Securities Representative category. These subcategories currently allow an individual to sell a subset of the products (*e.g.*, options, common stocks and corporate bonds, government securities) permitted to be sold by a General Securities Representative. In recent years, however, the utility of these subcategories has also diminished as a result of technological, regulatory and business practice changes. This is evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations.

In addition, considering the type of interaction that Foreign Associates may have with customers, FINRA believes that such persons should demonstrate the same level of competence and knowledge required of their counterparts in the United States. Therefore, FINRA is proposing to eliminate this registration category.

Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives, Government Securities Representatives and Foreign Associates would be eligible to maintain their registrations with FINRA. Specifically, proposed FINRA Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category. With respect to Foreign Associates, proposed FINRA Rule 1220.06 provides that individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA. However, if Foreign Associates subsequently terminate their

registrations with FINRA, they would not be able to re-register as Foreign Associates. Unlike the other eliminated categories, Foreign Associates would not be eligible to re-register in the same category within two years of terminating their registrations because the two-year lapse of registration provision is only applicable to those registration categories that have an associated qualification examination. In addition, proposed FINRA Rule 1220.06 would include the current restrictions to which Order Processing Assistant Representatives are subject as well as the current conditions to which Foreign Associates are subject.

With respect to the NYSE registration categories for Securities Lending Representatives and Securities Lending Supervisors, FINRA had originally proposed to adopt these categories under a FINRA rule. However, given that securities lending activities are covered under the Operations Professional registration category, which is a more recent registration category, FINRA does not believe that it is necessary to adopt specific registration categories for individuals engaged in such activities. Moreover, FINRA is considering potential changes to the CRD system that would enable firms to identify registered persons engaged in securities lending activities through other functionalities.

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed FINRA Rule 1220(a)(2) (relating to General Securities Principals), proposed FINRA Rule 1220(a)(3) (relating to Compliance Officers) and proposed FINRA Rule 1220.06 (relating to the eliminated registration categories), FINRA is proposing to include grandfathering provisions in proposed FINRA Rules 1220(a)(5), (a)(6), (a)(8), (a)(9), (a)(13), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered with FINRA in specified registration categories on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be qualified to register in the proposed corresponding registration categories without having to take any additional examinations.

outside the jurisdiction of the United States; and (3) cannot engage in any securities activities with or for any citizen, national or resident of the United States. To register an associated person as a Foreign Associate, a member must: (1) File a Form U4 with FINRA and certify that the person meets the criteria for a Foreign Associate; (2) attest that the person is not disqualified from registration; and (3) certify that service of process for any proceeding by FINRA for such person may be sent to an address designated by the member. If the Foreign Associate is terminated, the member must notify FINRA immediately by filing a Form U5.

⁷⁶ See Incorporated NYSE Rules 345(a) and .10 and NYSE Rule Interpretation 345.15/02.

⁷⁷ As discussed above, FINRA is also proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories.

N. Associated Persons Exempt From Registration (Proposed FINRA Rules 1230 and 1230.01)

NASD Rule 1060(a) currently provides that the following associated persons are not required to register: (1) Associated persons who are not actively engaged in the investment banking or securities business; (2) associated persons whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation; and (3) associated persons whose functions are related solely and exclusively to: effecting transactions on the floor of a national securities exchange and who are registered as floor members with such exchange, transactions in municipal securities, transactions in commodities or transactions in security futures (provided that any such person is registered with a registered futures association). In addition, both the NASD rules and the Incorporated NYSE rules provide an exemption from registration for associated persons whose functions are solely and exclusively clerical or ministerial.⁷⁸ NASD Rule 1060(a) is not meant to provide an exclusive or exhaustive list of exemptions from registration. Associated persons may otherwise be exempt from registration based on their activities and functions.

FINRA is proposing to adopt NASD Rule 1060(a) as FINRA Rule 1230 subject to the following changes. As noted above, NASD Rule 1060(a) exempts from registration those associated persons who are not actively engaged in the investment banking or securities business. NASD Rule 1060(a) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.⁷⁹ FINRA believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. FINRA does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's investment banking or securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated persons whose functions are

related only to a member's need for capital participation is consistent with this analytical framework. FINRA therefore is proposing to delete these exemptions. NASD Rule 1060(a) further exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of a national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration categories other than the floor member category, proposed FINRA Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of a national securities exchange, provided they are appropriately registered with such exchange.

In *NTM 87-47* (July 1987), FINRA stated that unregistered administrative personnel may occasionally receive an unsolicited customer order at a time when appropriately qualified representatives or principals are unavailable. FINRA believes that to accept customer orders a person must be appropriately registered. Accordingly, FINRA is proposing to rescind the guidance provided in *NTM 87-47* and instead adopt FINRA Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

O. Changes to CE Requirements (Proposed FINRA Rule 1240)

As described above, FINRA Rule 1250 includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 with the changes discussed below.

1. Regulatory Element

FINRA is proposing to replace the term "registered person" under current FINRA Rule 1250(a) with the term "covered person" and make conforming changes to proposed FINRA Rule 1240(a). For purposes of the Regulatory Element, FINRA is proposing to define the term "covered person" under FINRA Rule 1240(a) as any person, other than a Foreign Associate, registered pursuant to proposed FINRA Rule 1210, including any person who is permissively registered pursuant to proposed FINRA Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed FINRA Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed FINRA Rule 1210.09. In addition, consistent with proposed FINRA Rule 1210.09, proposed FINRA Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, FINRA is proposing to codify existing FINRA guidance regarding the impact of failing to complete the Regulatory Element on a registered person's activities and compensation.⁸⁰ Specifically, proposed FINRA Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. The proposed rule provides, however, that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.

FINRA is also proposing to remove superfluous language under current FINRA Rule 1250(a)(1) stating that FINRA shall determine the content of the Regulatory Element.

⁷⁸ See NASD Rule 1060(a)(1) and Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01.

⁷⁹ These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

⁸⁰ See, e.g., *NTM 95-35* (May 1995).

2. Firm Element

Current FINRA Rule 1250(b)(2)(B) provides that with respect to Research Analysts and their immediate supervisors, the minimum standards for the Firm Element training programs must cover training in ethics, professional responsibility and the requirements of FINRA Rule 2241.⁸¹ FINRA believes that training in ethics and professional responsibility should apply to all covered registered persons. Moreover, FINRA Rule 1250(a)(2)(A) currently requires that a member maintain a CE program that enhances a covered registered person's professionalism. Therefore, proposed FINRA Rule 1240(b)(2)(B) requires that a firm's training program cover training in ethics and professional responsibility. FINRA is also proposing to eliminate the specific requirement that Research Analysts receive training regarding FINRA Rule 2241. FINRA believes that this requirement is already addressed under current FINRA Rule 1250(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements.

P. Deletion of Incorporated NYSE Rules

FINRA is proposing to delete the following Incorporated NYSE rules as they are substantially similar to the proposed consolidated registration rules, otherwise incorporated as described above, rendered obsolete by the proposed approach reflected in the consolidated registration rules, or addressed by other rules:

- Incorporated NYSE Rule 10 (definition of "registered representative");
- Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01 (clerical and ministerial exemption from registration);
- Incorporated NYSE Rule 311.17 (definition of "principal executive");
- Incorporated NYSE Rule Interpretation 311(b)(5)/01 (qualification requirements for principal executives);
- Incorporated NYSE Rule Interpretations 311(b)(5)/02 and/03 (relating to the designation and registration of a CFO and a COO);
- Incorporated NYSE Rule Interpretation 311(g)/01 (requirement that members carrying customer accounts have at least two general partners);⁸²

⁸¹ See FINRA Rule 1250(b)(2)(B)(iv).

⁸² This is a conforming change. The corresponding rule incorporated from the NYSE, Incorporated NYSE Rule 311(h), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12,

• Incorporated NYSE Rule 321.15 (registration of specified employees of a foreign subsidiary);

• Incorporated NYSE Rule 344 and its Interpretation (Research Analyst and Supervisory Analyst registration categories);

• Incorporated NYSE Rules 345(a), 345.10, 345.15(2) through 345.15(4) and NYSE Rule Interpretation 345.15/02 (representative categories);⁸³

• Incorporated NYSE Rules 345.12, 345.13, 345.17 and 345.18 and NYSE Rule Interpretations 345.12/01 and 345.18/01 (Forms U4 and U5 filing requirements);

• Incorporated NYSE Rule 345.15(1)(a) (examination requirement);

• Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01 (examination waivers);

• Incorporated NYSE Rule Interpretation 345(a)/02 (independent contractor status);⁸⁴

• Incorporated NYSE Rule Interpretation 345(a)/03 (status of persons serving in the Armed Forces);

• Incorporated NYSE Rule Interpretation 345(b) (provisions regarding officers);⁸⁵

• Incorporated NYSE Rule 345.16 (requirement to provide information regarding members' employees); and

• Incorporated NYSE Rule 472(a)(2) (requiring research reports to be approved by a Supervisory Analyst).

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 90

2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

⁸³ FINRA is also proposing to delete the NYSE registration requirements relating to commodities solicitors (Incorporated NYSE Rule 345.15(5) (Commodities Solicitors)) and floor members and floor clerks (Incorporated NYSE Rule Interpretation 345.15/02) as these activities are not within the scope of the proposed FINRA registration rules.

⁸⁴ Incorporated NYSE Rule Interpretation 345(a)/02 provides that an independent contractor is deemed an employee of a member for purposes of the NYSE rules and requires that the member comply with specified requirements when entering into an arrangement with any person asserting independent contractor status, including a requirement that the independent contractor execute a "consent to jurisdiction" form. The status of independent contractors as associated persons of a member under FINRA rules is well settled. See, e.g., Letter from Douglas Scarff, Director, Division of Market Regulation, SEC, to Gordon S. Macklin, President, NASD (June 18, 1982).

⁸⁵ This is a conforming change. The corresponding NYSE rule, NYSE Rule 345(b), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

days following Commission approval. The effective date will be no later than 18 months following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,⁸⁶ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and section 15A(g)(3) of the Act,⁸⁷ which authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members.

FINRA believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing examinations that currently have limited utility.

In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the investment banking and securities business.

The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

⁸⁶ 15 U.S.C. 78o-3(b)(6).

⁸⁷ 15 U.S.C. 78o-3(g)(3).

Finally, FINRA believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the need for the proposed rulemaking, the regulatory objective of the rulemaking, the economic baseline of analysis, the economic impacts and the alternatives considered.

1. Need for the Rules

The Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has adopted registration requirements and developed qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge consistent with the applicable registration requirements.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA undertook a review of the NASD registration rules and the Incorporated NYSE rules relating to registration to streamline and update the rules and eliminate duplicative, obsolete or superfluous provisions. The proposed consolidated registration rules are the result of that process.

FINRA also reviewed its representative-level examination program and determined to enhance the overall efficiency of the program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public.

2. Regulatory Objectives

The proposed rule change would create a more effective and efficient qualification and registration process, without impacting the proficiency required to function as a representative or principal or reducing investor protection. In addition, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by familiarizing them with securities laws, rules and regulations and appropriate conduct at an earlier stage of career development.

3. Economic Baseline

The baseline for the economic impact assessment is the current structure of the registration rules and the examination program. As of October 2016, there were approximately 500,000 individuals holding representative level registrations and approximately 140,000 individuals holding principal level registrations (approximately 640,000 individuals total).⁸⁸

The NASD rules relating to qualification and registration are a complex framework, which can result in compliance and operational challenges for firms. Moreover, dual members of FINRA and the NYSE are required to comply with the NASD rules and the Incorporated NYSE rules. As set forth in *Regulatory Notice* 09–70, the NASD and Incorporated NYSE rules include differences regarding the respective qualification and registration requirements, which create further compliance and operational challenges for dual members.

The qualification examination program sets basic standards of competency for persons associated with FINRA members, and fosters compliance with FINRA rules through required examinations and continuing education. The examinations collectively cover a broad range of subjects on the markets, the securities industry and its regulatory structure. The content includes knowledge of FINRA rules as well as the rules of the SEC and other SROs.

FINRA notes that in 2015, there were more than 90,000 exam candidates in 16 representative-level examinations. The Series 6, 7 and 79 examinations were the three examinations with the highest volume in terms of candidates, constituting more than 90% of the total candidate volume. The examinations that are proposed to be eliminated (Series 11, 17, 37, 38, 42, 62 and 72)

⁸⁸ The numbers provided in this economic impact assessment are rounded to reasonable approximations for ease of reference.

constitute less than 1% of the total candidate volume in 2015.

There is considerable overlap in the general securities knowledge content of the current representative-level examinations, which results in duplicative testing of such content for individuals who are required to pass multiple examinations.

In addition, individuals generally must be associated with a member to be eligible to take a qualification examination, which, among other things, hinders the development of a pool of prospective securities industry professionals. In the absence of the proposed rule change, firms, associated persons and other impacted persons would continue to be subject to the complexities, challenges and inefficiencies of the current structure.

4. Economic Impacts

FINRA notes that the proposed rule change includes a variety of changes, some of which may have a more significant impact. The following analysis will focus on those changes that are anticipated to have a material impact.

A. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

The proposed rule provides firms with greater flexibility to satisfy the two-principal requirement, as members can choose a principal registration category that better matches with the scope of the member's activities. For example, if a firm's activities are focused solely on investment banking, it may choose to have two Investment Banking Principals, instead of two General Securities Principals. This flexibility should benefit members that specialize in a single security or market or otherwise engage in more limited activities.

B. Permissive Registrations (Proposed FINRA Rule 1210.02)

The proposed rule expands the scope of permissive registrations by allowing any associated person to obtain and maintain any registration permitted by the member. The proposed rule is expected to facilitate movement of registered personnel within and across firms and help firms better manage unanticipated needs for registered personnel by allowing them to maintain a roster of permissively registered persons available to meet those needs. The ability to permissively register associated persons may benefit such individuals and their firms by creating savings in examination fees,

examination preparation time and time spent in the examination centers.

However, members that choose to permissively register associated persons would incur the cost of complying with the requirements of the proposed rule, including the cost of establishing adequate supervisory systems and procedures reasonably designed to ensure that such individuals do not act outside the scope of their assigned functions. FINRA believes that the proposed requirements are necessary to protect against the potential misuse of permissive registrations and any attendant costs are only borne at the discretion of the firm.

C. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

The proposed rule adopts a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the SIE) and a specialized knowledge examination. As noted above, FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file a separate proposed rule change to establish the fees for the SIE and the specialized knowledge examinations, which will include a pricing analysis. The focus of the economic impact assessment in this proposed rule change, therefore, is on the anticipated number of future candidates and the total number of examination questions that they would be required to answer as a proxy for the effort required to complete a qualification examination.

As described in greater detail below, while some individuals would see an increase in examination questions, FINRA is anticipating that more than half of the individuals seeking a representative-level registration would see a reduction in the number of examination questions.

Under the proposed rule, individuals seeking representative-level registrations must prepare and sit for the SIE and a separate specialized knowledge examination instead of prepare and sit for a single examination that covers both general and specialized knowledge of the securities industry as currently required. Some of these individuals would experience a net decrease in their total number of examination questions, and some would experience a net increase.

Specifically, individuals seeking the General Securities Representative, Investment Banking Representative or

Research Analyst registration would experience a net decrease in their total number of examination questions under the proposal.⁸⁹ This accounts for approximately 54% of individuals seeking registration for the first time or after a lapse in registration of four or more years.⁹⁰ Individuals seeking registration in other limited representative categories, including the Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative, Private Securities Offerings Representative or Operations Professional category, would experience a net increase in their total number of examination questions under the proposed rule. This accounts for approximately 44% of individuals seeking registration for the first time or after a lapse in registration of four or more years. In 2015, approximately 75,000 individuals took at least one of the 16 representative-level examinations. Approximately 8% of these candidates took two or more distinct examinations that would be replaced by the SIE and the corresponding qualification examinations (e.g., Series 6, 7 and 79).⁹¹ These individuals would experience a net decrease in their total number of examination questions under the proposed rule.

Further, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would experience a net decrease in their total number of examination questions if they re-registered because they would be considered to have passed the SIE or their SIE result would still be valid. Similarly, current registrants seeking an additional or alternative representative registration category would also experience a net decrease in their total number of examination questions because they would have already satisfied the SIE requirement, so they only have to take the appropriate specialized knowledge examination. These groups represent a relatively

⁸⁹ Individuals seeking registration as Research Analysts will experience a net decrease in the number of questions because such individuals would no longer be required to first register as General Securities Representatives.

⁹⁰ The reported percentages are calculated from estimated volumes based on five-year averages for all examinations except the Operations Professional examination (Series 99). Volumes for the Series 99 examination are based on three-year averages because the Series 99 examination was implemented more recently than the other examinations.

⁹¹ This data is based on a three-year review period (2012–2015).

small percentage of individuals seeking registrations.⁹²

The cost of developing and implementing the new examination structure, including the development and maintenance of a management system to track SIE results, would primarily fall upon FINRA. Any individual, including the general public and investors, could take a general knowledge examination thereby enhancing the pool of prospective representatives. FINRA does not have estimates on the number of individuals who are not associated persons, or are associated persons who are not required to register, who would take the SIE. However, FINRA anticipates that the participation of these individuals would defray the cost of the program to some extent.

Currently, individuals generally must be associated with a member to be eligible to take FINRA qualification exams. The new examination structure would permit the general public to take the SIE, enabling prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application. Further, individuals can use the SIE to assess their readiness to enter the securities industry.

FINRA understands that currently some firms cover the examination fees for their representative-level registrants. Under the proposed rule, firms may choose to incur the cost of both the SIE and specialized knowledge examinations for their representative-level registrants. Alternatively, firms may require potential registrants to pass the SIE before they can be considered for a position, in which case the SIE fee may be incurred by the individual and the associated impact may be a shifting of some of the costs associated with qualification from the firm to the individual.

The proposed rule continues to ensure that registered persons attain and maintain specified levels of competence and knowledge and, thus, it will continue to support investor protection. Moreover, FINRA expects the introduction of the SIE, which would reduce the complexity of the examination program and reduce content overlap, to increase the efficiency of the examination program and potentially create savings for members.

⁹² These groups do not include Order Processing Assistant Representatives because they would not be considered to have passed the SIE.

D. Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

The proposed rule requires that a representative designated by a member to function as a principal for a limited period before having to pass a principal-level examination have at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. FINRA believes that the proposed condition is necessary to ensure that such representatives have an appropriate level of registered representative experience. However, the proposed rule extends the limited period that such representatives may function as principals before having to pass the applicable principal examination from 90 calendar days to 120 calendar days. The proposed rule also allows an individual registered as a principal to function in another principal category for 120 calendar days before having to pass the applicable principal examination for that category, without having to satisfy the proposed experience requirement for representatives.

E. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

The proposed rule maintains a two-year lapse of registration period, but establishes a four-year expiration period for the SIE. Therefore, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would only be required to take an appropriate specialized knowledge examination, and not the SIE. FINRA believes that establishing a four-year expiration period for the SIE will reduce the overall cost of registration, such as the SIE examination fee and test preparation costs, for individuals returning to the industry after two years, but less than four years, from the date of their last registration because they would not be required to retake the SIE.

F. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

The proposed rule provides a waiver program for individuals registered with a member who move to a financial services industry affiliate of a member, subject to specified conditions. The proposed rule waives the requalification requirements upon reassociation with a member, and thus may reduce the costs associated with requalification. Approximately half of the persons who gained a registration in 2015 held the

same registration previously. Based on FINRA's experience with the examination waiver program, FINRA believes that a small percentage of these individuals had to terminate their registration(s) to work for a financial services industry affiliate of a member. These individuals and the firms with which they would associate would realize savings of the costs associated with examinations. However, there are costs associated with maintaining eligibility for the waiver, such as the cost of satisfying the Regulatory Element of CE.

G. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

The proposed rule allows the CCO of a member that is engaged in limited investment banking or securities business to register in a principal category that corresponds to the limited scope of the member's business. Similar to the proposed change to the two-principal requirement, the proposed rule has the potential to benefit members that engage in more limited activities, by providing flexibility in choosing a principal registration category that is tailored to the scope of the firm's business.

H. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

Under the proposed rule, members would be required to designate a Principal Financial Officer and a Principal Operations Officer. FINRA believes that the proposed rule would have a minimal impact on dual members of FINRA and the NYSE because they are currently required to designate a CFO and a COO under the Incorporated NYSE rules, which are analogous to a Principal Financial Officer and a Principal Operations Officer. Members that are not dual members are currently required to only designate a CFO, which is analogous to a Principal Financial Officer. There are approximately 4,000 members, 3,800 of which are not dual members of FINRA and the NYSE. The proposed rule requires members that are not dual members of FINRA and the NYSE to designate a Principal Operations Officer in addition to a Principal Financial Officer. Accordingly, such members would bear the cost of identifying and designating an associated person as Principal Operations Officer, including the potential costs associated with the qualification and registration of such a person (*i.e.*, a Principal Operations Officer must be qualified and registered as a Financial and Operations Principals or an Introducing Broker-Dealer

Financial and Operations Principals, as applicable). However, the proposed rule allows members that neither self-clear nor provide clearing services to designate the same person as the Principal Financial Officer and Principal Operations Officer. In addition, a clearing or self-clearing member that is limited in size and resources could request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

I. Research Principal (Proposed FINRA Rule 1220(a)(6))

Currently, an individual who seeks registration as a Research Principal would take three examinations, the Series 7, 24 and 87, totaling 450 questions, or the Series 7, 16 and 24, totaling 500 questions. Under the proposed rule, an individual who seeks registration in the same category would take either two or four examinations, the Series 16 and 24, totaling 250 questions, or the SIE, the Series 24, 86 and 87, totaling 375 questions. Therefore, while some individuals registering as Research Principals may be required to take an additional examination, all individuals seeking the Research Principal registration would experience a net decrease in their total number of examination questions under the proposed rule.

J. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

As discussed above, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative. FINRA believes that the utility of these examinations has diminished based on changes to the industry, as evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations. For example, in 2015, the volume of candidates for each of the examinations associated with these registration categories was as follows: Series 11 (100); Series 17 (20); Series 37 (50); Series 38 (20); Series 42 (2); Series 62 (300); and Series 72 (20). In addition, FINRA is proposing to eliminate the Foreign Associate registration category. There are approximately 500 Foreign Associates currently registered in the CRD system, which is less than 1% of the total number of registered persons.

While FINRA is proposing to eliminate these registration categories going forward, individuals registered in these categories would be eligible to maintain their registrations with FINRA, thus reducing the impact on them. Specifically, the proposed rule provides that individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category. Individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA, provided that if they subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates.

K. Registration Requirements for Associated Persons Who Accept Customer Orders (Proposed FINRA Rule 1230.01)

The proposed rule rescinds existing guidance regarding the ability of unregistered persons to, on occasion and when a registered person is unavailable, accept an unsolicited customer order that is manually submitted. Moreover, the proposed rule prohibits unregistered persons from accepting customer orders under any circumstances. The proposed rule would impact firms that currently rely on unregistered persons to accept unsolicited manual orders from customers when a registered person is unavailable, unregistered persons who accept the orders and customers who place such orders with unregistered persons. Under the proposed rule, only appropriately registered persons can accept customer orders. Therefore, firms that accept unsolicited manual orders from customers must have appropriately registered persons available to accept such orders. If an appropriately registered person is unavailable to accept a customer order that is manually submitted, the proposed rule would allow an unregistered person to

transcribe the order details, provided that an appropriately registered person subsequently contacts the customer to confirm the order details before entering the order. FINRA does not have data on how many firms, or how often firms, permit unregistered persons to accept unsolicited manual orders from customers based on the existing guidance. However, FINRA believes that investor protection concerns outweigh any additional burden on such firms.

Alternatives Considered

The following are the most significant alternatives that were suggested by commenters or that FINRA considered on its own accord. Commenters also suggested other alternatives, which are discussed in Item II.C. below.

FINRA originally considered whether individuals with permissive registrations should be subject to a subset of FINRA rules. FINRA determined to adopt an alternative approach that is principles-based and provides firms the flexibility to tailor their supervisory systems to their business models. Under the revised approach, individuals maintaining a permissive registration would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities.

In addition, FINRA considered whether individuals who only maintain permissive registrations should be counted for purposes of a firm's number of registered persons. Currently, individuals who are permissively registered are counted for such purposes. FINRA determined that it is appropriate to continue to count such individuals for purposes of calculating the number of registered persons and assessing associated fees given that FINRA incurs costs for oversight and examinations relating to all registered persons.

FINRA originally considered whether to create an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, and it determined not to do so. Rather, all individuals registered in the CRD system would be considered registered persons. Further, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

FINRA also considered alternative models for restructuring the examinations and found the proposed approach to be the most efficient for

achieving the goals of the proposal, including the elimination of duplicative testing of general securities knowledge. For instance, among other models, FINRA considered retaining the current Series 7 examination and revising the existing limited qualification examinations in addition to creating the SIE. FINRA also considered retaining the current limited qualification examinations and revising the existing Series 7 examination in addition to creating the SIE. Under both of these alternatives, an individual would be subject to duplicative testing of general securities knowledge if the individual registers in a limited category and later decides to register as a General Securities Representative.

FINRA considered whether individuals who are not associated persons of firms should be allowed to take the SIE. FINRA determined that allowing individuals who are not associated persons of firms to take the SIE would enhance the pool of prospective securities industry professionals. FINRA also established appropriate safeguards that are intended to discourage such individuals from misrepresenting their qualifications to the public. Specifically, FINRA would require that such individuals attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Further, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

FINRA considered alternatives to the proposed experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. FINRA determined to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement for representatives.

Further, FINRA considered alternatives to the two-year period for lapse of registration and the four-year expiration period for the SIE. FINRA

determined that based on the content of the SIE, a passing result on the SIE would be valid for four years. With respect to the representative- and principal-level registrations, FINRA determined that the registrations would continue to be subject to a two-year expiration period. However, FINRA will explore the possibility of extending the two-year expiration period through the use of more frequent CE.

With respect to the FSA waiver program, FINRA originally considered a proposal whereby individuals could maintain their registrations in an RA status, subject to complex tracking and tolling provisions. FINRA determined that the proposed FSA waiver program would significantly reduce the operational, administrative and cost burden on members, associated persons and FINRA, as compared to the original proposal.

FINRA originally considered adopting a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers. However, FINRA determined not to adopt a separate qualification examination pending its evaluation of the structure of the principal-level examinations.

FINRA also considered whether to retain some of the registration categories that it initially proposed to eliminate, including the registration categories of United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Foreign Associate. As described above, the overall utility of these registration categories has diminished over the years, which is why FINRA proposes to eliminate them.

Finally, FINRA considered whether to revise the proposal regarding associated persons who accept customer orders to clarify its application to situations where an appropriately registered person is unavailable. FINRA determined to revise the proposal to clarify that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments Relating to Consolidated Registration Rules

In December 2009, FINRA published *Regulatory Notice* 09-70, seeking comment on the proposed consolidated registration rules.⁹³ FINRA received 22 comment letters in response to the *Notice*, which are discussed below. A copy of the *Notice* is attached as Exhibit 2a.⁹⁴ A list of the comment letters received in response to the *Notice* is attached as Exhibit 2b.⁹⁵ Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c.

1. Permissive Registrations (Proposed FINRA Rule 1210.02)

A. General Comments

GWFS Equities appreciated the proposed provisions regarding permissive registrations, but stated that the costs associated with implementing the provisions, including tracking the status of individuals in an RA status, outweighed the benefits. FSI was concerned that the proposed requirements may result in the deregistration of individuals who are currently permissively registered. Nationwide was concerned with the feasibility of the RA status and the potential administrative and cost burdens. Nationwide also stated that the proposal would prevent some individuals from registering in an RA status because of the potential burdens.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program, which would significantly reduce the operational, administrative and cost burden on firms and associated persons. Further, the proposed rule change would not require firms to maintain permissive registrations. Rather, it provides firms the flexibility to do so, subject to specified conditions. Each firm is free to determine whether to maintain any permissive registrations.

B. Tolling and Forfeiture Provisions Relating to RA status

Several commenters stated that the tolling and forfeiture provisions for individuals in an RA status were too

complicated and burdensome.⁹⁶ ICI and USAA requested exceptions from the RA conditions for specified persons. T. Rowe, ARM and CAI asked that the time limitation for remaining in an RA status be eliminated. NSCP stated that the time limitation was arbitrary. In addition, SIFMA suggested that individuals in an RA status be permitted to restart a fresh time limit if they satisfied specified conditions. In light of these and other comments, FINRA has replaced the RA proposal with the FSA waiver program.

C. Other Comments Relating to Permissive Registrations

AEC requested that individuals who only maintain permissive registrations not be counted for purposes of a firm's approved number of representatives. AEC also suggested that FINRA place time limits on permissive registrations. Currently, individuals who are permissively registered are counted for purposes of calculating the number of registered persons and assessing associated fees. FINRA believes that it is appropriate to continue to do so given that FINRA incurs costs for oversight and examinations relating to all registered persons. FINRA does not believe that individuals with a permissive registration should be subject to a time limitation because they would be subject to supervision by a member as described in the proposed rule change.

T. Rowe requested that FINRA create an "active" category for all required registrations and a "retained" category for all permissive registrations. T. Rowe added that "retained" persons should be deemed associated persons, but subject only to a subset of FINRA rules. ARM similarly requested that FINRA create an "active" category for all required registrations and a "permissive" category for all permissive registrations. Edward Jones stated that there was no regulatory distinction between an active and inactive status and that the proposal should not create such a distinction. NSCP requested additional clarification regarding the inactive status and the provisions applicable to individuals who would maintain a permissive registration. T. Rowe and ARM stated that the term "inactive" should not be used because it may be confused with the term "CE inactive."

FINRA has eliminated the distinction between an active and inactive status. Rather, all individuals registered in the CRD system would be considered registered persons. As noted above, FINRA will consider changes to the CRD

⁹³ Some of the proposed changes discussed in this filing were not part of the proposals set forth in *Regulatory Notice* 09-70, including the proposed FSA waiver program.

⁹⁴ The Commission notes that the exhibits referred to are attached to the filing, not to this *Notice*.

⁹⁵ All references to commenters are to the comment letters as listed in Exhibit 2b.

⁹⁶ GWFS Equities, T. Rowe, ICI, ARM, FSI, USAA, Nationwide, NSCP, SIFMA and IMS-2.

system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

Under the proposed rule change, any associated person of a member is eligible to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, could maintain a representative-level registration. Further, an associated person of a member who is registered, and functioning solely, as a representative could obtain and maintain a permissive principal-level registration with the member. In addition, the proposed rule change allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities. For instance, FINRA rules that relate to interactions with customers would have no practical application to the conduct of a permissively registered individual who does not have any customer contact. However, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. FINRA had originally proposed that individuals with permissive registrations be subject to a subset of FINRA rules. FINRA believes that the revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their business models.

SIFMA requested that the proposal more clearly define the different categories of required and permissive registrations, including the Compliance Officer registration category. FINRA had originally proposed to allow individuals registering as Compliance Officers, other than CCOs, a choice between an active or inactive status, subject to specified conditions. Under the revised proposal, there is no longer a distinction between an active and inactive status. CCOs would be required to register as Compliance Officers or in a more limited principal category as specified in proposed FINRA Rule 1220(a)(3), and

other associated persons would be allowed to permissively register as Compliance Officers.

Nationwide requested additional clarification regarding the supervision of individuals who maintain solely permissive registrations. Nationwide also noted that for purposes of compliance with FINRA Rule 3110(a)(5), the proposal should allow for risk-based supervision reasonably designed to ensure compliance, such as the use of periodic questionnaires and certifications to satisfy supervisory obligations.

A firm's supervisory procedures must be reasonably designed to achieve compliance with the requirements of the proposed rule change. FINRA does not believe that it is necessary to discuss whether any particular methodology, such as risk-based supervision, satisfies the requirements of the proposed rule change. Moreover, with respect to an individual who solely maintains a permissive registration, such individual's day-to-day supervisor may be a non-registered person. Though, for purposes of compliance with FINRA Rule 3110(a)(5), members would be required to assign a registered supervisor who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal. However, in either case, the registered supervisor of an individual who solely maintain [sic] a permissive registration would not be required to be registered in the same registration category as the permissively-registered individual.

Cornell asked whether individuals who solely maintain permissive registrations would be able to contact customers because they would be considered registered persons for purposes of FINRA rules. Individuals who contact existing or prospective customers would have to be authorized to do so by a member and maintain a required registration, unless otherwise permitted under FINRA rules. For purposes of contacting existing or prospective customers, individuals who solely maintain permissive registrations would be subject to the same limitations as unregistered persons.

SIFMA stated that assigning a registered supervisor to each individual in an RA status for purposes of FINRA

Rule 3110(a)(5) would not be practical or effective in all cases. SIFMA suggested that the proposal be revised to require the assignment of a registered supervisor responsible for implementing a system of policies, procedures and controls reasonably designed to ensure that individuals in an RA status do not engage in activities that require registration. Alternatively, SIFMA suggested that the proposal be revised to require that individuals in an RA status be subject to the member's overall supervisory system, including written procedures designed to address compliance with the rules applicable to them and the requirement that they act within the limits of their status. GWFS Equities noted that maintaining registrations for individuals in an RA status while they are working for affiliated investment advisers could present potential conflicts between broker-dealer and advisory activities for firms that are not dually registered.

As noted above, FINRA has replaced the RA proposal with the FSA waiver program, which would not require firms to assign a registered supervisor to individuals working for a financial services industry affiliate of a member. However, the proposed rule change would allow a member to permissively register an individual working for a foreign securities affiliate or subsidiary of the member, as currently permitted. If a member chooses to maintain such a permissive registration, it would be required to assign a registered supervisor to such permissively registered individuals, as described above.

Nationwide asked that the proposal be amended to expressly allow a firm to determine the scope of its bona fide business purpose. Cornell requested that FINRA define the term "bona fide business purpose." ACI stated that the term "bona fide business purpose" may be applied inconsistently across firms and that FINRA should recognize this when considering enforcement. FINRA had originally proposed to permit the registration of associated persons engaged in a bona fide business purpose of a member. The revised proposal would allow any associated person to obtain and maintain any registration permitted by the member. FINRA believes that associated persons by definition are engaged in a bona fide business purpose of a member.

Edward Jones and SIFMA requested that a person who was registered within the past two years prior to the effective date of the proposal be eligible for permissive registration. Nothing in the proposed rule change would preclude a member from applying to register such

a person once the proposed rule change becomes effective.

Edward Jones stated that individuals who had been registered two or more years, but less than four years, prior to the effective date of the proposal be eligible for permissive registration. FSI stated that individuals who had been registered two or more years, but less than five years, prior to the effective date of the proposal be eligible for permissive registration, subject to satisfying their CE requirements. Individuals who have been out of the brokerage industry for two or more years prior to the effective date of the proposed rule change would be eligible for permissive registration, provided that they pass the requisite qualification examination or obtain a waiver upon re-registration. Moreover, individuals who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would be considered to have passed the SIE and designated as such in the CRD system.

SIFMA and ABA stated that section 3(a)(4) of the Act allows a nominal one-time referral fee to bank employees that are not associated persons. In addition, they noted that Rule 701 of SEC Regulation R allows more than the one-time referral fee to bank employees that are not registered for the referral of high net worth individuals or institutional customers. SIFMA and ABA requested that the proposal clarify that individuals in an RA status are not associated persons and not registered for purposes of these provisions. IMS asked whether the RA status should be limited to persons working at affiliates of a member. ABA requested that the proposal allow a member to maintain registrations for persons who work for an unaffiliated bank with which the member has contractually entered into a networking arrangement.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program. Under the revised proposal, an FSA-eligible person who is working for a financial services industry affiliate of a member would not be considered an associated or registered person.

NASAA stated that the proposal did not articulate a sound regulatory basis for expanding permissive registrations and that the current restrictions regarding the “parking” of registrations should stay in place. NASAA also stated that the waiver process was more appropriate to achieve the goals of the proposal, rather than an expansion of permissive registrations. NASAA further stated that the proposal did not comply with the Act’s provision that requires

FINRA to prescribe standards of training, experience and competence for associated persons of members. In addition, NASAA stated that CE cannot be a substitute for qualification examinations because CE is not tailored to address the eventual function of permissively registered individuals at the member. NASAA noted that, at the very least, the proposal should include enhancements to existing CE requirements. IMS asked whether it was necessary to revise the current requirements applicable to permissively registered persons.

FINRA believes that there is a sound regulatory purpose for permitting permissive registrations for several reasons. First, the proposed rule change would in effect allow firms to maintain an individual’s registration in a standby status in the event the firm has a foreseeable need to move the individual to a position that requires registration, without having to go through the registration process each time the individual moves between a firm’s business units. FINRA believes that this would simplify compliance with registration requirements. Second, the proposed rule change would allow associated persons to gain greater regulatory literacy, which would, in turn, enhance a firm’s culture of compliance. Third, the proposed rule change would eliminate a regulatory inconsistency in the current rules, which permit some associated persons of a member to maintain permissive registrations, but not others who equally are engaged in the member’s business. For instance, an individual working in a firm’s internal audit department may be permissively registered, whereas an individual working in the Corporate Secretary’s office of a firm is currently not permitted to do so.

The proposed rule change has other regulatory benefits. While all registered persons are subject to firm supervision under the current rules, the rules do not explicitly address the obligations of firms to supervise permissively registered persons, including individuals who are working in a non-registered capacity at the firm or who are working for a foreign securities affiliate or subsidiary of the firm. In conjunction with the expansion of permissive registrations, the proposed rule change expressly sets forth the obligation of firms to supervise permissively registered persons and specifies the manner in which firms must supervise such individuals, which will, in turn, improve regulatory compliance. Further, by replacing the RA proposal with the FSA waiver

program, FINRA has limited the scope of permissive registrations.

FINRA believes that the proposed rule change satisfies its obligation under the Act to prescribe standards of training, experience and competence for the following reasons. Foremost, individuals who maintain solely permissive registrations are subject to the same qualification examinations as individuals who are required to register. As such, the proposed rule change would not substitute CE requirements for qualification examinations; rather, CE remains a supplement to the examinations. Also, similar to individuals who are required to register, members would be required to conduct background investigations pursuant to FINRA Rule 3110(e) on individuals who maintain solely permissive registrations to establish, among other things, their qualifications and experience. Moreover, such individuals are equally subject to supervision by a member, including the requirement to participate in an annual compliance meeting. Further, as discussed above, such individuals would be subject to the Regulatory Element of the CE requirements. The required Regulatory Element would correspond to their registration status.⁹⁷

Several commenters requested more details regarding the notification and tracking process for individuals with permissive registrations.⁹⁸ Edward Jones stated that the affirmative notification requirements of the proposal were too complicated and that the proposal should allow firms to maintain the required information regarding the status of such individuals and make it available upon request during the course of examinations. CAI asked whether the CRD system would be updated to track permissive registrations. CAI also requested that FINRA provide sufficient time for the implementation of the proposal. SIFMA requested that the CRD system and BrokerCheck be modified to accommodate and disclose permissive registrations. NSCP stated that the current CRD system would not be able to handle the workload, and it asked that the notification process be further developed before the proposal is filed

⁹⁷ The Regulatory Element of CE includes the following four programs: The S106 (for Investment Company and Variable Contracts Representatives), the S201 (for registered principals and supervisors), the S901 (for Operations Professionals) and the S101 (for all other registered persons). FINRA recently enhanced the S101 program by including personalized content that covers retail sales, institutional sales, trading, operations and investment banking and research.

⁹⁸ T. Rowe, ARM, Edward Jones, NSCP, Cornell, SIFMA and CAI.

with the SEC. ARM requested that FINRA make the necessary system changes to accommodate the proposed tracking requirements.

The original proposal included a complex notification and tracking process that required firms to indicate to FINRA whether a registered person had an active or inactive status and whenever that status changed. FINRA has revised the proposal and simplified the overall process. Under the proposed rule change, all individuals who are registering with FINRA would go through the same process: There would be no distinction between an individual with a required registration and an individual with a permissive registration for purposes of the registration process. However, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration to the general public. Moreover, FINRA will consider the need for firms to make procedural and systems changes in establishing an implementation date for the proposed rule change.

Nationwide asked whether FINRA intends to assert jurisdiction for purposes of examining individuals in an RA status. CAI stated that FINRA's oversight of and authority over individuals who solely maintain permissive registrations should be limited to activities that directly involve the securities activities of the member. Individuals would not be permitted to register in an RA status under the revised proposal. Further, individuals who solely maintain a permissive registration under the proposed rule change would be subject to FINRA's jurisdiction by virtue of their status as associated persons.

NSCP noted that the definition of "financial services industry" for purposes of the RA status appeared to be broad enough to encompass the range of activities in which financial service providers are engaged, but suggested that the definition be broadened to facilitate the inclusion of other regulatory bodies, such as the Consumer Financial Protection Bureau. NSCP suggested that this could be achieved by FINRA having the authority to recognize a particular entity or type of entity as being in the financial services industry for purposes of the proposal, without the need to go through future rulemaking. As noted above, while FINRA has replaced the RA proposal with the proposed FSA waiver program,

the definition of the term "financial services industry affiliate" is similar to the definition under the RA proposal. Further, FINRA believes that the proposed definition is sufficiently broad and should not be revised in a manner that may extend the definition beyond financial services.

2. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

GWFS Equities, ARM and NSCP were concerned that the proposed experience requirement is an additional prerequisite requirement for registration as a principal. Proposed FINRA Rule 1210.04 does not impose an experience requirement for those persons designated to function as principals after passing an appropriate principal qualification examination. Rather, it creates an experience requirement for those representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. Thus, the experience requirement is narrow in scope.

T. Rowe stated that requiring an individual to satisfy all applicable prerequisites to be eligible to be designated as a principal under the proposal was unwarranted. T. Rowe was also concerned with the proposed experience requirement. NASD Rule 1021(d)(2) currently provides that persons not currently associated with a member as representatives are allowed to be designated as principals for 90 days prior to passing the applicable principal examination, but only after all applicable prerequisites have been fulfilled. Proposed FINRA Rule 1210.04 simply clarifies that any person that is to be designated as principal for the proposed limited period must fulfill all applicable prerequisite registration, fee and examination requirements, such as passing the General Securities Representative examination, prior to his or her designation as a principal. In addition, the experience requirement is intended to ensure that a registered representative functioning as a principal for the 120-day time period before having to pass a principal examination has an appropriate level of experience to carry out such functions.

ARM asked whether the experience requirement applies to all principal designations or only those that have a prerequisite representative registration requirement. The experience requirement applies to all principal designations, including those without a prerequisite representative registration requirement (e.g., Financial and Operations Principal). FINRA has

revised the proposed rule to clarify this point.

FSI stated that small firms may find it difficult to find an experienced representative and that small firms should be provided a limited size and resources exception. FINRA does not believe the experience requirement, which is only applicable in limited situations, imposes any undue burden on small firms. Moreover, as noted above, the requirement is intended to ensure that the representative has an appropriate level of experience to carry out the assigned principal functions. However, in light of the comment, FINRA has revised the proposed rule to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement.

3. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

FSI asked whether the 180-day waiting period was triggered upon three successive examination failures within 30 calendar days of each other or three successive examination failures in any given period. In response, FINRA has revised the proposed rule to provide that the 180-day waiting period is triggered upon three successive examination failures within a two-year period.

4. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

NSCP sought additional clarification regarding the Compliance Officer registration requirement and whether individuals could be permissively registered as Compliance Officers. Proposed FINRA Rule 1220(a)(3) would only require that CCOs register as Compliance Officers or in a more limited principal category as specified in the rule. However, consistent with proposed FINRA Rule 1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

GWFS Equities stated that the requirement that CCOs pass the General Securities Principal qualification examination even if a firm's activities are limited to mutual funds and variable contracts seems unwarranted. As noted above, FINRA has revised the proposed rule to permit the CCO of a member that is engaged in limited investment banking or securities business to have a more limited principal-level qualification.

NSCP asked whether the Compliance Officer registration category would be a

principal-level category. The Compliance Officer registration category would be a principal-level category.

FINRA had originally proposed to permit firms to designate Compliance Officers who are permissively registered in an active status, provided they were engaged in compliance activities. FSI asked whether such Compliance Officers were required to forego their active status if they moved to another department within the firm. As discussed above, FINRA has eliminated the proposed active and inactive status.

ARM, Pershing and SIFMA suggested that the proposal did not adequately explain whether the current NYSE Compliance Official category would be eliminated. The Incorporated NYSE rules relating to the Compliance Official registration requirement (former Incorporated NYSE Rule 342.13(b) and NYSE Rule Interpretation 342(a)(b)/02) were deleted as part of the proposed changes to the supervision rules. Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change, would be qualified to register as Compliance Officers without having to take any additional examinations. FINRA understands that the NYSE will separately determine how to address the current Compliance Official requirement under its rules.

NSCP suggested that registration as a Corporate Securities Representative or Private Securities Offerings Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers. CAI suggested that registration as an Investment Company and Variable Contracts Products Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers of firms that are engaged solely in activities relating to investment company and variable contracts products. FINRA is proposing to eliminate the Corporate Securities Representative registration category. However, as discussed above, FINRA has revised proposed FINRA Rule 1220(a)(3) to allow the CCO of a member that is limited in the scope of its activities to have a more limited principal-level qualification, which would include a more limited representative-level prerequisite registration.

CAI also asked whether a CCO who has been grandfathered as a Compliance Officer under the proposal could maintain that registration if the CCO changed firms. CCOs who are grandfathered as Compliance Officers under the proposed rule change would not lose those registrations, unless their registrations lapse under proposed FINRA Rule 1210.08.

ACI suggested that the Compliance Officer grandfathering provision should allow for the grandfathering of unemployed compliance officers. For purposes of grandfathering and subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, the proposed rule change would only recognize individuals who are registered in the CRD system on the effective date of the proposed rule change and individuals who were registered within two years prior to the effective date of the proposed rule change. FINRA would evaluate the status of other former compliance personnel on a case-by-case basis through the waiver process.

5. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4)(B))

Pershing asserted that larger clearing firms may need to designate multiple Principal Financial Officers and Principal Operations Officers, and it asked whether the proposed rule would allow multiple designations. In addition, Pershing asked whether the proposed rule would allow the Principal Financial Officer or Principal Operations Officer to delegate the day-to-day duties to other principals at the firm, such as a General Securities Principal or a Financial and Operations Principal. A member may designate multiple Principal Operations Officers, provided that the member precisely defines and documents the areas of primary responsibility and makes specific provision for which of the officers has primary responsibility in areas that can reasonably be expected to overlap. A member, however, may not designate multiple Principal Financial Officers, given the importance of having one principal who is responsible for the financial statements as a whole. The Principal Financial Officer and Principal Operations Officer may delegate the day-to-day duties to other principals at the firm with the understanding that ultimate responsibility for the function rests with the Principal Financial Officer and Principal Operations Officer.

CAI stated that the Principal Operations Officer requirement should be limited to persons who are responsible for handling or processing

customer funds or securities. CAI also stated that an officer responsible only for administrative and technical matters should not be subject to the requirement. FINRA believes that the proposed rule clearly articulates the functions that must be assigned to a Principal Operations Officer.

T. Rowe stated that a firm's Principal Operations Officer should register as a General Securities Principal. FINRA continues to believe that the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal, as applicable, is the more appropriate registration for a person designated as a Principal Operations Officer. FINRA notes that a Principal Financial Officer and a Principal Operations Officer would also be subject to the Operations Professional registration requirement.

IMS requested that the proposed rule exempt non-custodial clearing firms operating pursuant to SEA Rule 15a-6 from the requirement that clearing and self-clearing firms designate separate persons to function as Principal Financial Officer and Principal Operations Officer. The proposed rule provides that a clearing or self-clearing firm that is limited in size and resources may request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Consistent with the proposed rule, FINRA believes that it is more appropriate to consider waiver requests by firms on a case-by-case basis, rather than including a blanket exception in the proposed rule.

6. Elimination of Foreign Associate Registration Category (Proposed FINRA Rule 1220.06)

ARM and Konig stated that the Foreign Associate registration category should be retained. FINRA had originally proposed to eliminate this registration category and to require that persons registered as Foreign Associates in the CRD system qualify and register in an appropriate registration category, such as the General Securities Representative category, within one year of the effective date of the proposed rule change. FINRA continues to believe that the category should be eliminated and that such persons should demonstrate the same level of competence and knowledge required of their counterparts in the United States. However, as described above, FINRA has revised the proposal to permit Foreign Associates registered with FINRA on the effective date of the proposed rule change to maintain their registrations with FINRA. FINRA

believes that the revised proposal reduces the impact on current Foreign Associates. As an alternative, Konig requested that examinations be made available in foreign languages. Konig also incorrectly stated that Foreign Associates are exempt from the requirements of U.S. securities laws and should continue to be exempt from such requirements. As explained above, a Foreign Associate is considered a registered representative and subject to all the requirements to which registered representatives are subject, with the exception of the requirement to pass a qualification examination and comply with the Regulatory Element of the CE requirements. In addition, FINRA does not believe that it is practical to develop examinations in foreign languages. However, consistent with current policy, an examination candidate for whom English is a second language may request up to 60 minutes of additional examination time depending on the time allotted for taking the examination.

7. Associated Persons Exempt From Registration (Proposed FINRA Rules 1230 and 1230.01)

The original proposal in *Regulatory Notice* 09–70 provided that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. This is a rescission of the guidance provided in *NTM* 87–47.

NSCP stated that the existing guidance should remain intact. ACI believes that rescinding the guidance could cause significant disruption to firms' operations and that it requires further consideration. FINRA continues to believe that associated persons who accept customer orders under any circumstances should be appropriately registered and continues to propose the rescission of the guidance provided in *NTM* 87–47. However, FINRA has revised the proposal to clarify that an associated person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

8. Miscellaneous Comments

Dresdner stated that the proposal should allow a member to maintain registrations of associated persons specifically required by an exchange even after the member has terminated its exchange membership. The proposed

rule change would allow such members to maintain those registrations that are also recognized by FINRA as acceptable registrations (e.g., General Securities Sales Supervisor). FINRA is not in a position to opine on the status of registrations that are not recognized by FINRA upon a member's termination of its exchange membership.

IMS requested that there be examination reciprocity between the SROs. Some examinations (e.g., the General Securities Sales Supervisor examinations) are recognized by most SROs. FINRA believes that it is more appropriate to evaluate examinations that are specific to an exchange on a case-by-case basis through the waiver process.

IMS also suggested that FINRA consider alternatives to the current lapse of registration period. For instance, IMS recommended that the two-year period be extended by a year for each three years that a person is registered. IMS further recommended that the two-year period should be replaced with a CE requirement similar to other professions (e.g., attorneys and certified public accountants). As described above, FINRA is proposing that a passing result on the SIE be valid for four years, while the representative- and principal-level registrations would continue to be subject to a two-year expiration period. However, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

ARM was concerned that some NYSE supervisory registrations, such as the Compliance Official registration, held by individuals associated with a member that is not a dual member of FINRA and the NYSE may not be recognized by the CRD system for grandfathering purposes. As discussed above, FINRA prefers to evaluate the status of a person who would not be recognized for grandfathering purposes on a case-by-case basis through the waiver process. ARM also asked whether the waiver guidelines for the analytical portion of the Research Analyst qualification examination (Series 86) would continue to be applicable. FINRA is not proposing any changes to the current provisions for obtaining a waiver from the analytical portion of the Research Analyst qualification examination.

T. Rowe. asked whether its officers who have the authority to execute agreements with its clearing firm, including margin arrangements, and who also have the authority to allow specified securities lending and borrowing activities would be subject to the proposed registration requirements

for Securities Lending Representatives and Securities Lending Supervisors. As noted above, FINRA is no longer proposing to adopt these registration categories. However, the individuals identified by T. Rowe may be required to register as Operations Professionals if they are functioning as Operations Professionals as set forth in proposed FINRA Rule 1220(b)(3).

The proposed rule change codifies existing guidance in *NTM* 99–49 regarding active management of a member's business. NSCP noted that the *NTM* included other relevant guidance and asked whether the other guidance would remain in effect. FINRA emphasizes that existing guidance and interpretations regarding registration requirements would continue to apply to the extent that they are not inconsistent with the proposed rules.

Further, NSCP asked that the proposal provide minimum requirements for personnel background investigations. In 2015, FINRA adopted FINRA Rule 3110(e), which sets forth the minimum requirements for background checks. NSCP also asked whether the proposal would impact referral fees. An associated person must be appropriately registered to be eligible to receive transaction-based compensation. Moreover, proposed FINRA Rule 1220.06 would expressly prohibit the payment of specific transaction-based compensation to Order Processing Assistant Representatives. In addition, NSCP requested further guidance regarding the supervision of unregistered persons. Unregistered persons engaged in a member's investment banking or securities business are considered associated persons. FINRA rules and *Notices* provide extensive guidance regarding supervisory requirements, including the supervision of associated persons that are not registered.

Comments Relating to Examination Restructuring

In May 2015, FINRA published *Regulatory Notice* 15–20, seeking comment on a proposal to restructure the representative-level qualification examinations. FINRA received 20 comment letters in response to the *Notice*, which are discussed below. A copy of the *Notice* is attached as Exhibit 2d. A list of the comment letters received in response to the *Notice* is attached as Exhibit 2e.⁹⁹ Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2f.

⁹⁹ All references to commenters are to the comment letters as listed in Exhibit 2e.

A. Requirement and Eligibility To Take the SIE and Specialized Knowledge Examinations

The majority of commenters supported creating the SIE and specialized knowledge examinations and streamlining the registration categories and associated qualification examinations as specified in the proposal.¹⁰⁰ SUI similarly supported the proposal, but it questioned the elimination of the Options Representative and Canadian Securities Representative registration categories as well as the associated examinations. Eder was likewise supportive of the proposal, but suggested that FINRA also eliminate the Direct Participation Programs Representative, Securities Trader, Investment Banking Representative, Private Securities Offerings Representative, Research Analyst and Operations Professional registration categories as well as the associated examinations, and instead require individuals performing these functions to register as General Securities Representatives by taking the specialized Series 7 examination.

Lincoln Financial and CAI supported the overall goals of the proposal, including eliminating the registration categories and qualification examinations specified in the proposal, but they questioned whether requiring individuals registering with FINRA as new representatives to take the SIE and a specialized knowledge examination would be the most efficient way of achieving the proposal's goals. Lincoln Financial noted that FINRA may be able to achieve its goals by revising only the current limited representative-level examinations, such as the Series 55, Series 79, Series 86 and Series 87, and Series 99, rather than revising all the current representative-level examinations. Lincoln Financial suggested that, as an alternative, individuals who take more limited examinations today, such as the current Series 6 or Series 99 examination, should not be required to take the SIE. CAI is concerned that requiring a General Securities Representative or an Investment Company and Variable Contracts Products Representative to take the SIE and a specialized knowledge examination could impose additional burdens that may not necessarily achieve the regulatory objectives of the proposal.

FINRA considered a variety of models for restructuring the examinations and found the proposed approach to be the most effective method in achieving the main goals of the proposal, which are to eliminate duplicative testing of general securities knowledge on examinations, provide prospective securities industry professionals the ability to demonstrate fundamental securities knowledge and to do so in an equitable and uniform manner. For instance, if FINRA were to exclude the General Securities Representative registration category from the scope of the proposal, an individual who registers in a limited registration category, by passing the SIE and a specialized knowledge examination, would be subject to duplicative testing of general securities knowledge if he or she later decides to register as a General Securities Representative. Similarly, if FINRA were to remove the limited registration categories from the scope of the proposal, an individual who registers in a limited category and later decides to register as a General Securities Representative would be subject to duplicative testing of general securities knowledge by having to pass the SIE and the specialized Series 7 examination.

In addition, the majority of commenters were generally supportive of allowing associated persons who will not be performing a registered representative job function as well as individuals who are not associated persons of firms to take the SIE.¹⁰¹ ICI stated that FINRA should take steps to ensure that individuals who are permitted, but not required, to take the SIE do not make any misstatements to the public regarding their qualifications based on passing the SIE. ICI added that FINRA should clarify, either through an affirmation on the examination application or a new rule, that individuals who are not associated persons of firms are prohibited from holding themselves out to the public as having passed the SIE. In this regard, ICI also suggested that FINRA determine how to address any potential misconduct by individuals who are not associated persons of firms. FSI and Lincoln Financial similarly requested that FINRA address the potential risks of allowing individuals who are not associated persons of firms to take the SIE.

Monahan & Roth opposed allowing individuals who are not associated persons of firms to take the SIE because

the proposed SIE Rules of Conduct do not address restrictions on the manner in which an individual who has passed the examination might hold himself or herself out to the public and because there is no supervisory system to monitor non-compliance by such individuals. Monahan & Roth also stated that allowing such individuals to take the SIE may result in investor confusion and potential misrepresentations to the public. Monahan & Roth requested that FINRA address whether the status of such individuals would be reflected in BrokerCheck and specify the restrictions on the availability of information on them.

FINRA believes that allowing individuals who are not associated persons of firms to take the SIE will enhance the pool of prospective securities industry professionals by, among other things, familiarizing them with securities regulation and appropriate conduct at an early stage of career development. The SIE Rules of Conduct would require individuals, including non-associated persons, to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. Further, FINRA will engage in a communications campaign to ensure that the public, including retail investors, are [sic] well-informed of the SIE and its limitations. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Also, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

BrokerCheck would not publicly reflect the status of individuals who have only taken the SIE, including individuals who are not associated persons, because passing the SIE alone does not qualify them for registration with FINRA via the CRD system. With respect to the availability of information on individuals who have only taken the SIE, access to this information would be limited. A firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. A firm would also be able to obtain SIE results for an individual if the firm

¹⁰⁰ Monahan & Roth, Tessera, Arrow Investments, SIFMA, XT Capital, ICI, CFA, Edward Jones, FSI, PFS, Wells Fargo and ARM. Tessera, Arrow Investments and XT Capital also supported the other comments made by Monahan & Roth. Further, Wells Fargo and ARM supported the other comments made by SIFMA.

¹⁰¹ Eder, SIFMA, ICI, CFA, Edward Jones, FSI, Lincoln Financial, DCI, CAI, PFS, Wells Fargo, SUI and ARM.

submits a Form U4 and requests a registration for that individual. In addition, FINRA and other SROs that recognize the SIE would be able to obtain an individual's SIE results.

IMS agreed that individuals should not have to be associated with a FINRA member to take the SIE, but it disagreed with the rest of the proposal. IMS stated that professional proficiency can be maintained through the use of mandatory CE requirements and that an individual's qualification status should not expire so long as the individual completes his or her CE, regardless of whether the individual remains in the industry.

FINRA is considering the possibility of whether more frequent CE could be used to ensure that individuals who leave the industry for a limited period maintain specified levels of competence and knowledge to carry out their job functions upon returning to the industry.

N.I.S. opposed the proposal altogether. It stated, among other things, that its representatives are currently required to pass the Uniform State Law Examination (Series 63) and Series 6 examination, which provide them with the necessary knowledge to perform their functions, and that requiring its new representatives to also take the SIE would be time consuming and costly.

B. Scope and Content of the SIE and Specialized Knowledge Examinations

Monahan & Roth suggested that FINRA add the following topics to the SIE outline: (1) Overview of other financial industry participants, such as advisers and portfolio managers; (2) requirements relating to communications with the public, including categories of communications and electronic communications; (3) discussion of confidentiality and privacy; and (4) restrictions relating to borrowing from or lending to customers. In addition, Monahan & Roth stated that content on the SIE outline related to customer accounts, such as account types, should be moved to a specialized knowledge examination relating to general sales because many firms do not open customer accounts.

The purpose of the SIE is to establish that an individual has fundamental securities-related knowledge, including knowledge of the applicable laws, rules and regulations. Further, the SIE would likely be limited to 75 scored questions established through the use of testing industry standards in consultation with a committee of industry and SRO representatives. While knowledge of other financial industry participants has general educational value, FINRA does

not believe that testing such knowledge is relevant to the purpose and scope of the SIE. FINRA expects that the SIE would cover the topic of communications with the public, confidentiality and privacy of consumer information and restrictions on borrowing from or lending to customers. FINRA does not believe that SIE content relating to customer accounts should be removed. The content relating to customer accounts is essential to understanding the different types of customers in the securities industry, such as retail and institutional customers, and a firm's related obligations.

SIFMA considered the content of the SIE outline to cover fundamental securities industry knowledge. However, SIFMA noted that an individual taking the SIE should not be expected to have detailed knowledge of the rules listed in the outline, such as the SEC's net capital rule (SEA Rule 15c3-1), but rather be expected to have a general awareness of such rules. FSI and ARM had similar comments. Eder was concerned that the listing of broad rules and rule sets in the SIE outline, such as SEA Rule 15c3-1 and the MSRB rules, would be confusing to individuals preparing for the SIE and stated that FINRA should provide more direction on the scope of the covered topics. CFA considered the content of the SIE outline to be common knowledge. However, it recommended that FINRA add content on quantitative concepts (such as time value of money), how best to serve client investment needs, and risk management.

In general, SIE content relating to professional conduct, characteristics of products and economic factors would be tested in more detail, whereas other content, such as the net capital rule, would be tested at a high level. FINRA believes that an understanding of quantitative concepts is more appropriate for individuals taking a specialized knowledge examination, such as the specialized Series 79 or specialized Series 86 examination. With respect to knowledge of client investment needs, the SIE would cover suitability requirements at a high level. In addition, FINRA believes that the concept of risk management is better suited for a representative- or principal-level examination.

Lincoln Financial did not consider many of the topics covered in the SIE outline to be common knowledge to some representatives, including representatives that do not work at a full-service broker-dealer. It asked that FINRA develop an outline that focuses on higher level topics common to all

broker-dealers. DCI was concerned that the SIE covers complex content, such as options and municipal securities, that most representatives need not master today. SUI noted that the SIE outline does not cover Exchange-Traded Notes or derivatives in general (other than options). SIFMA and ARM asked that FINRA solicit comment on the content of the proposed specialized knowledge examinations through a *Regulatory Notice*. PFS noted that the number of questions on the SIE should be reduced and determined by testing industry standards.

FINRA is developing the SIE with input from a committee that includes representatives from a broad spectrum of small, mid-sized and large firms. Based on the committee's feedback as well as the comments received from the other commenters, FINRA believes that the SIE content, including general coverage of options and municipal securities, represents broad-based knowledge of the securities industry. The SIE content would cover Exchange-Traded Notes. However, the content on derivatives would be limited to a general knowledge of options, which is the most common derivative. Consistent with testing industry standards, the specialized knowledge examinations would be developed with input from committees of industry representatives who have expertise on the covered subject matters based on their day-to-day roles, responsibilities and job functions. Further, consistent with FINRA's practice regarding examination-related filings, the specialized knowledge examinations would be filed with the SEC for immediate effectiveness. FINRA determined the number of questions on the SIE, which likely will be 75 questions, based on testing industry standards for establishing test reliability.

C. Expiration Period of the SIE and Specialized Knowledge Examinations

Eder and CFA agreed with the proposed four-year expiration period for the SIE. CAI stated that a four-year or longer period may be appropriate if the SIE will test fundamental concepts, but if the content of the SIE is more likely to change or be updated a shorter period, such as three years, may be appropriate. SUI stated that four years is a reasonable length of time and that five years should be the absolute maximum period. SIFMA and Wells Fargo suggested that the SIE period be extended to five years. They also requested that the expiration period for the specialized knowledge examinations, which is two years as

proposed, be aligned with the SIE and extended to five years. SIFMA noted that if FINRA extends the time period to five years, individuals who are not associated with a member during the five-year period could satisfy a CE requirement to maintain their proficiency. ARM requested that FINRA consider a six-year period for the SIE and a five-year period for the specialized knowledge examinations.

Based on the content covered on the SIE, FINRA continues to believe that a passing result on the SIE should be valid for four years. In addition, FINRA believes that the specialized knowledge examinations should be subject to a two-year expiration period similar to the current examinations. However, as noted above, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

D. Elimination of Registration Categories and Associated Examinations

SUI recommended that FINRA maintain the Options Representative registration category and develop a specialized knowledge examination for individuals advising the public on options trading, similar to the Canadian model. SUI also stated that FINRA should retain the Canadian Securities Representative registration categories and the associated examinations so that individuals have an understanding of the different legal frameworks in which they operate. Alternatively, SUI asked that if FINRA grandfathers existing Canadian Securities Representatives, FINRA should allow individuals who terminate their registrations a period of four or five years to re-register as Canadian Securities Representatives. Further, DCI stated that its business is limited to activities in which a Corporate Securities Representative may engage, and it is concerned that the proposed elimination of the Corporate Securities Representative registration category and associated Series 62 examination might dissuade prospective representatives from joining the firm if they have to take a more comprehensive examination, such as the specialized Series 7 examination.

The overall utility of the Options Representative and Corporate Securities Representative registration categories has diminished over the years, which is why FINRA is proposing to eliminate them. For instance, fewer than five individuals registered as Options Representatives in 2014. FINRA believes that the Canadian Securities Representative registration categories should be eliminated and replaced with an alternative qualification process.

Under the proposed rule change, an individual qualified in Canada would be exempt from taking the SIE and would be able to register in any registration category by taking and passing only the applicable specialized knowledge examination(s). FINRA believes that this alternative approach would provide individuals qualified in Canada more flexibility to obtain a FINRA representative-level registration. Further, as noted above, FINRA is considering the possibility of extending the current two-year expiration period for registrations.

Eder suggested that FINRA only retain the Investment Company and Variable Contracts Products Representative and General Securities Representative registration categories. FINRA disagrees and notes that the limited registration categories that FINRA is proposing to retain continue to have a regulatory purpose. For instance, the Equity Trader registration category, the predecessor to the Securities Trader category, was created for individuals engaged in securities trading activities over-the-counter or on Nasdaq with the view that better training and qualification of such individuals was necessary. The Research Analyst registration category was created for associated persons engaged in research activities in conjunction with FINRA's research analyst rule, FINRA Rule 2241, addressing conflicts of interest.

E. Principal-Level Examinations and Other Qualification Examinations

Several commenters asked that FINRA consider similar changes to the principal-level examinations.¹⁰² Tessler further asked that FINRA and the MSRB consider any duplicative content that may exist on a principal-level examination for supervisors of Municipal Advisors and on the current Series 24 examination.

Monahan & Roth suggested that FINRA also adopt a similar structure (that is, general knowledge and specialized knowledge examinations) for the proposed Compliance Officer registration category. In addition, Monahan & Roth requested that FINRA work with the MSRB to: (1) Add the Municipal Advisor (Series 50) qualification examination to the list of proposed specialized knowledge examinations;¹⁰³ (2) grandfather General Securities Representatives and Municipal Securities Principals from the requirement to take a specialized Series 50 examination; and (3) avoid

redundancies in developing the content outline of a specialized Series 50 examination. SIFMA asked that FINRA and the MSRB align their examination structures consistent with the proposal.

Tessera noted that the current Series 50 examination contains significant overlap with the current Series 7 examination and Municipal Advisors that have passed the Series 7 examination should not be retested on duplicative content that appears on the Series 50 examination.

Edward Jones encouraged FINRA and NASAA to consider whether the Uniform Investment Adviser Law Examination (Series 65) could be updated in conjunction with the specialized Series 7 examination so that individuals working for registered investment advisers could demonstrate the necessary knowledge required to work as a registered representative.

FINRA is currently evaluating whether the principal-level examinations could be restructured in a similar manner. FINRA has also discussed with MSRB staff the possibility of their adoption of the SIE as a concurrent requirement for the MSRB representative-level examination, the Municipal Securities Representative (Series 52) examination, as part of the restructuring, and MSRB staff participate on the SIE committee. However, FINRA notes that the restructuring is limited to the representative-level examinations, and it does not extend to advisory-related examinations, such as the Series 50 or Series 65 examination.

F. Implementation and Administration

SIFMA requested that FINRA set a fixed, maximum amount of seat time for candidates to complete the SIE plus specialized knowledge examinations. Each of the proposed examinations, including the SIE, will include a time limit, which will correlate to the number of questions on each examination. While the SIE will have a fixed time limit, the time limit on each specialized knowledge examination will vary because the number of questions on each will vary.

PFS urged that FINRA continue the practice of allowing candidates to schedule and take multiple examinations on the same day. SIFMA and ARM asked that FINRA clarify whether an individual who fails the SIE would be permitted to take a specialized knowledge examination and the applicable fees in such situations. Further, with respect to individuals who schedule the SIE and a specialized knowledge examination for the same day, FSI suggested that FINRA allow

¹⁰² Tessler, SIFMA, Edward Jones, FSI, Wells Fargo and ARM.

¹⁰³ Tessler made the same comment.

them to withdraw from taking the specialized knowledge examination without incurring a fee for the withdrawal.

An individual who fails the SIE would be allowed to take a specialized knowledge examination. This would include an individual who schedules the examinations for the same day. However, such individual's registration would not be approved in the CRD system until he or she takes and passes the examinations required for that registration category. Moreover, if such individual determines not to take a scheduled specialized knowledge examination, the individual would be charged a fee for registering to take it.¹⁰⁴ This process is similar to the current process for registration categories that allow for concurrent qualifications, such as the Research Analyst registration category.

CFA requested that FINRA consider granting waivers to individuals who are in the process of completing an appropriate professional qualification, such as the CFA Program. In addition, CFA suggested that FINRA determine whether foreign qualifications would exempt an individual from taking a specialized knowledge examination and stated that its programs have considerable recognition in the United Kingdom and Canada. CFA also asked that FINRA consider dividing the SIE content into investment-related content and content that covers the applicable laws, rules and regulations, and it suggested that FINRA consider offering a waiver of the investment-related content to individuals who have passed a college level investments course or have made sufficient progress towards earning an appropriate professional qualification. CFA further stated that FINRA may want to consider outsourcing the development and testing of the laws, rules and regulations content on the SIE for economic reasons. Moreover, it asked that FINRA recognize the CFA's programs in granting exemptions from the restructured representative-level examinations.

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that FINRA's current process for developing examinations, which includes input from committees of industry and SRO subject matter experts, is an effective means of developing the content of

FINRA examinations and consistent with FINRA's regulatory authority. Under the proposed rule change, FINRA would continue to accept requests for waivers of the applicable qualification examinations and accept, where appropriate, other standards as evidence of an applicant's qualifications for registration.¹⁰⁵

PFS suggested that FINRA shorten the waiting periods for retaking a failed examination and allow an individual who fails an examination to retest after seven days and allow an individual who has three successive examination failures to retest after three months. In addition, PFS asked that FINRA post and periodically update pass rate information for each examination, including the first time pass rate, overall pass rate and the success ratio. PFS also asked that FINRA delay the implementation date of the proposed rule change until the third quarter of 2017 to provide the industry adequate preparation time.

Similar to the current waiting periods for failed examinations, an individual who fails the SIE or a specialized knowledge examination would have to wait 30 calendar days before retaking that particular examination. Further, pursuant to proposed FINRA Rule 1210.06, if an individual fails the SIE or a specialized knowledge examination in three successive attempts within a two-year period, the individual would have to wait 180 days before retaking that particular examination. These waiting periods are for test security purposes and to ensure an examination's effectiveness as a measure of ability. A firm would be able to obtain a report of examination results for its associated persons and for individuals seeking to associate with the firm.

FINRA had originally proposed to implement the revised structure in two phases. The first phase would have included the SIE and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative, the General Securities Representative and the Investment Banking Representative registration categories, which represent the highest volume representative-level examinations. The second phase would have included the remaining specialized knowledge examinations. As originally proposed, the first phase would have occurred in the fourth quarter of 2016,

and the second phase during the first half of 2017. Rather than a phased implementation, FINRA intends to implement the entire revised structure in March 2018. FINRA believes that a single launch date in 2018 will provide greater uniformity to the implementation process and provide firms and examination applicants additional preparation time. In addition, FINRA will continue to seek industry feedback on the implementation process, and will consider extending the launch date to address any operational issues raised by the industry.

ARM requested that FINRA clarify the application process, including the applicable form(s), for individuals taking the SIE and whether they would be subject to the type of disclosures required on the Form U4 and the process by which FINRA would validate any such information. ARM further requested that FINRA publish basic guidelines or high-level requirements so that firms can better manage the expectations of associated persons seeking waivers.

Individuals taking the SIE, including associated persons of firms who are not registering as representatives, would be able to enroll for the SIE without the need to submit a Form U4, and they would not be subject to the type of disclosures required on the Form U4. FINRA is proposing to create an enrollment system that provides access through an interface in the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to register with FINRA. With respect to the waiver process, FINRA has published guidelines to assist firms and individuals with this process. Moreover, FINRA will consider reaching out to the industry on the need for additional guidelines.

G. Examination Fees and Other Costs

ICI recommended that, to the extent practicable, the fees for the proposed examinations not exceed the fees for the current examinations. FSI noted that a high SIE fee may act as a potential barrier to entry into the securities industry. CAI also stated that the cost of the SIE cannot be prohibitive. PFS stated that candidates should not be required to pay more for examinations simply because the content will be split into separate examinations. FINRA is undertaking a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. The total examination

¹⁰⁴ See also FINRA Rescheduling and Cancellation Policy, <http://www.finra.org/industry/reschedule-or-cancel-your-appointment>.

¹⁰⁵ For instance, as noted above, candidates are eligible for a waiver of the current Series 86 examination if they have passed Levels I and II of the CFA examination and meet other eligibility criteria. Moreover, future candidates would be eligible for similar waivers for the specialized Series 86 examination.

fees for individuals registering in each representative-level category may vary depending on the fee for the SIE.

Lincoln Financial asked that FINRA evaluate the costs of additional study materials and courses resulting from having to take two examinations as well as technological changes to track the additional examination requirements. While FINRA does not have data on the costs of preparing for both the SIE and a specialized knowledge examination, FINRA believes that the proposed structure has the potential of lowering the examination preparation costs or keeping the costs the same as today, because examination applicants will be able to leverage their existing educational courses in preparing for the SIE and the specialized knowledge examinations will be shorter in length or the same length. The cost of developing and maintaining a management system to track SIE results would primarily fall upon FINRA. Further, a firm would be able to use the CRD system to track SIE results for its associated persons and for individuals seeking to associate with the firm.

FINRA specifically requested comment on the restructuring proposal's impact on the allocation of examination fees between members and examination applicants. SIFMA noted that currently some firms pay for all of their employees' examination fees and that firms that have independent contractors generally require the independent contractor to cover such fees. SIFMA added that, at this stage of the proposal, many firms do not anticipate an impact on how they allocate examination fees. CFA observed that allowing individuals who are not associated persons of firms to take the SIE would likely result in some increase in the percentage of individuals paying their own fees compared to individuals whose employers are paying their fees. N.I.S. stated that its newly-hired representatives pay the current examination fees and that the proposal would increase the cost to those representatives.

H. Other Comments

IMS suggested that BrokerCheck should display information on an individual's grandfathered registrations and waived examinations, and it should display the individual's professional degrees and designations on an optional basis. IMS also suggested that all regulators and auditors of FINRA members should be required to take and pass qualification examinations within a short period after they are hired, and that regulators should be allowed to hold such examinations permanently. FINRA considers these comments to be outside the scope of the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-FINRA-2017-007 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-FINRA-2017-007. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2017-007 and should be submitted on or before May 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-07046 Filed 4-7-17; 8:45 am]

BILLING CODE 8011-01-P

¹⁰⁶ 17 CFR 200.30-3(a)(12).



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Part III

The President

Memorandum of March 19, 2017—Delegation of Authority Under the
National Defense Authorization Act for Fiscal Year 2017
Proclamation 9588—Honoring the Memory of John Glenn

Presidential Documents

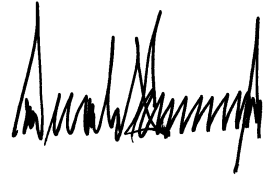
Title 3—**Memorandum of March 19, 2017****The President****Delegation of Authority Under the National Defense Authorization Act for Fiscal Year 2017****Memorandum for the Secretary of State**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State the functions and authorities vested in the President by section 3132 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) (the “Act”).

Any reference in this memorandum to the Act shall be deemed to be a reference to any future Act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, March 19, 2017

Presidential Documents

Proclamation 9588 of April 5, 2017

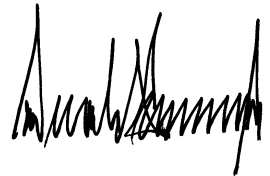
Honoring the Memory of John Glenn

By the President of the United States of America

A Proclamation

As a mark of respect for the memory of John Glenn, I hereby order, by the authority vested in me by the Constitution and the laws of the United States of America, that on the day of his interment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-first.



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Federal Register

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