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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2018–0320; Special Conditions No. 25–731–SC]

Special Conditions: Bombardier Model BD–500–1A10 and BD–500–1A11 Airplanes, Installation of Inflatable Lap Belts on Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. (Bombardier) Model BD–500–1A10 and BD–500–1A11 airplanes. These airplanes 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 installation of inflatable lap belts on seats. 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 Bombardier on June 29, 2018. Send comments on or before August 13, 2018.

ADDRESSES: Send comments identified by Docket No. FAA–2018–0320 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 website, 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).

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: Alan Sinclair, Airframe and Cabin Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3215; email *alan.sinclair@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions previously has been published in the **Federal Register** for public comment. These special conditions have 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 finds that, for the same reason, 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 December 6, 2017, Bombardier applied for an amendment to Type Certificate No. T00008NY to include the new Model BD–500–1A10 and BD–500–1A11 airplanes. These airplanes, which are a derivative of the Model BD–500 currently approved under Type Certificate No. T00008NY, are transport-category, twin-engine airplanes. The BD–500–1A10 has seating for 110 to 130 passengers and an estimated maximum take-off weight of 129,000 lbs. The BD–500–1A11 has seating for 130–150 passengers and an estimated maximum take-off weight of 144,000 lbs.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–500–1A10 and BD–500–1A11 airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00008NY, 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 Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes 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 Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes 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 Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes will incorporate the following novel or unusual design feature:

Installation of inflatable lap belts on seats.

Discussion

The inflatable lap belt has two potential advantages over other means of head-impact protection. First, it can provide significantly greater protection than would be expected with energy-absorbing pads, and second, it can provide essentially equivalent protection for occupants of all stature. These are significant advantages from a safety standpoint, because such devices will likely provide a level of safety that exceeds the minimum standards of part 25. Conversely, inflatable lap belts in general are active systems and must be relied upon to activate properly when needed, as opposed to an energy-absorbing pad or upper torso restraint that is passive and always available. Therefore, the potential advantages must be balanced against this and other potential disadvantages to develop standards for this design feature.

The FAA has considered the installation of inflatable lap belts to have two primary safety concerns: First, that they perform properly under foreseeable operating conditions; and second, that they do not perform in a manner or at such times as would constitute a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system.

The inflatable lap belt will rely on electronic sensors for signaling, and will employ an automatic inflation mechanism for activation, so that it is available when needed. These same devices could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of such deployment must be considered in establishing the reliability of the system. The applicant must substantiate that the effects of an inadvertent deployment in flight are either not a hazard to the airplane, or that such deployment is an extremely improbable occurrence (less than 10^{-9} per flight hour). The effect of an inadvertent deployment on a passenger or crewmember that might be positioned close to the inflatable lap belt should also be considered. The person could be either standing or sitting. A minimum reliability level will have to be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

The potential for an inadvertent deployment could be increased as a result of conditions in service. The installation must take into account wear and tear so that the likelihood of an inadvertent deployment is not increased to an unacceptable level. In this context, an appropriate inspection interval and self-test capability are considered necessary. Other outside influences are lightning and high-intensity radiated fields (HIRF). Existing regulations regarding lightning, § 25.1316, and HIRF, § 25.1317, are applicable. For compliance with those conditions, if inadvertent deployment could cause a hazard to the airplane, the inflatable lap belt is considered a critical system; if inadvertent deployment could cause injuries to persons, the inflatable lap belt should be considered an essential system. Finally, the inflatable lap-belt installation should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of a pyrotechnic squib.

To function as an effective safety system, the inflatable lap belt must function properly and must not introduce any additional hazards to occupants as a result of its functioning. The inflatable lap belt differs variously from traditional occupant-protection systems and requires special conditions to ensure adequate performance.

Because the inflatable lap belt is essentially a single-use device, it could potentially deploy under crash conditions that are not sufficiently severe as to require head-injury protection from the inflatable lap belt. And because an actual crash is frequently composed of a series of impacts before the airplane comes to rest, this could render the inflatable lap belt useless if a larger impact follows the initial impact. This situation does not exist with energy-absorbing pads or upper-torso restraints, which tend to provide continuous protection regardless of severity or number of impacts in a crash event. Therefore, the inflatable lap-belt installation should be such that the inflatable lap belt will provide protection when it is required, by not expending its protection during a less-severe impact. Also, it is possible to have several large impact events during the course of a crash, but there will be no requirement for the inflatable lap belt to provide protection for multiple impacts.

Given that each occupant's restraint system provides protection for that occupant only, the installation must address unoccupied seats. It will be necessary to show that the required protection is provided for each occupant regardless of the number of occupied seats, and that unoccupied seats may have lap belts that are active.

The inflatable lap belt should be effective for a wide range of occupants. The FAA has historically considered the range from the 5th percentile female to the 95th percentile male as the range of occupants that must be taken into account. In this case, the FAA is proposing consideration of a broader range of occupants due to the nature of the lap-belt installation and its close proximity to the occupant. In a similar vein, these persons could have assumed the brace position for those accidents where an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, so it would not be necessary to show that the inflatable lap belt will enhance the brace position. However, the inflatable lap belt must not introduce a hazard when it is deployed into a seated, braced occupant.

Another area of concern is the use of seats so equipped by children, whether they are lap-held, sitting in approved child-safety seats, or occupying the seat directly. Although specifically prohibited by FAA operating regulations, the use of the supplementary loop belt (''belly belt'') may be required by other civil aviation authorities, and should also be considered with the purpose of meeting those regulations. Similarly, if the seat is occupied by a pregnant woman, the installation needs to address such usage, either by demonstrating that it will function properly, or by adding appropriate limitation on usage.

The inflatable lap belt will be electrically powered. Likewise, the system could possibly fail due to a separation in the fuselage. Because this system is intended as crash/post-crash protection means, failure due to fuselage separation is not acceptable. As with emergency lighting, the restraint system should function properly if such a

separation occurs at any point in the fuselage.

Because the inflatable lap belt is likely to have a large volume displacement, the inflated bag could potentially impede egress of passengers. However, the lap-belt bag deflates to absorb energy, so it is likely that an inflatable lap belt would be deflated by the time passengers begin to leave their seats. Nonetheless, it is appropriate to specify a time interval after which the inflatable lap belt may not impede rapid egress. The maximum time allowed for an exit to open fully after actuation is 10 seconds, according to § 25.809(b)(2). Therefore, the FAA has established 10 seconds as the time interval that the inflatable lap belt must not impede rapid egress from the seat after it is deployed. In actuality, it is unlikely that a flight attendant would prepare an exit this quickly in an accident severe enough to warrant deployment of the inflatable lap belt. The inflatable lap belt will likely deflate much more quickly than 10 seconds.

This potential impediment to rapid egress is even more critical at the seats installed in the emergency-exit rows. Installation of inflatable restraints at the Type III exit rows presents different egress concerns as compared with front-row seats. However, the need to address egress is already part of the special conditions, so the special conditions are not changed at this time. As noted below, the method of compliance with the special conditions may involve specific considerations when an inflatable restraint is installed at Type III exits. Section 25.813 clearly requires access to the exit from the main aisle in the form of an unobstructed passageway, and no interference in opening the exit. The restraint system must not create an impediment to the access to, and the opening of, the exit. These lap belts should be evaluated in the exit row under existing regulations (§§ 25.809 and 25.813) and guidance material. The inflatable lap belts must also be evaluated in post-crash conditions, and should be evaluated using representative restraint systems in the bag-deployed condition.

This evaluation would include reviewing the access to, and opening of, the exit, specifically for obstructions in the egress path; and any interferences in opening the exit. Each unique interior configuration must be considered, *e.g.,* passageway width, single or dual passageways with outboard seat removed, etc. If the restraint creates any obstruction or interference, it is likely that it could impede rapid egress from the airplane. In some cases, the passenger is the one who will open the exit, such as a Type III over-wing hatch. Project-specific means-of-compliance guidance is likely necessary if these restraint systems are installed at the Type III exit rows.

Note that the special conditions are applicable to the inflatable lap-belt system as installed. The special conditions are not an installation approval. Therefore, while the special conditions relate to each such system installed, the overall installation approval is separate, and must consider the combined effects of all such systems installed.

Bombardier will install inflatable lap belts, a novel design feature, on certain seats of their Model BD–500–1A10 and BD–500–1A11 airplanes, to reduce the potential for head injury if an accident occurs. The inflatable lap belt works similar to an automotive inflatable air bag, except that the air bag in the applicant's design is integrated into the lap belt of the restraint system.

The performance criteria for head-injury protection in objective terms is stated in § 25.562. However, none of these criteria are adequate to address the specific issues raised concerning seats with inflatable lap belts. The FAA therefore has determined that, in addition to the requirements of part 25, special conditions are needed to address requirements particular to the installation of seats with inflatable lap belts.

Accordingly, in addition to the passenger-injury criteria specified in § 25.785, these special conditions are for Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes equipped with inflatable lap belts. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil-aviation authorities.

Part I of part 25, appendix F specifies the flammability requirements for interior materials and components. There is no reference to inflatable restraint systems in appendix F, because such devices did not exist at the time the flammability requirements were written. The existing requirements are based on material types as well as use, and have been specified in light of state-of-the-art materials available to perform a given function. Without a specific reference, the default requirement would apply to the type of material used in making the inflatable restraint, which is a fabric in this case. However, in writing special conditions, the FAA must also consider the use of the material, and whether the default requirement is appropriate. In this case, the specialized function of the inflatable restraint means that highly specialized materials are needed. The standard normally applied to fabrics is a 12-second vertical ignition test. However, materials that meet this standard do not perform adequately as inflatable restraints. Because the safety benefit of the inflatable restraint is significant, the flammability standard appropriate for these devices should not screen out suitable materials and thereby effectively eliminate the use of inflatable restraints. The FAA must establish a balance between the safety benefit of the inflatable restraint and its flammability performance. Presently, the 2.5-inch-per-minute horizontal test is considered to provide that balance. As the state-of-the-art in materials progresses (which is expected), the FAA may change this standard in subsequent special conditions to account for improved materials.

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 Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes. Should Bombardier 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.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 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 Bombardier Model BD–500–1A10 and BD–500–1A11 airplanes.

1. The inflatable lap belt must be shown to deploy and provide protection under crash conditions where it is necessary to prevent serious head

injury. The means of protection must take into consideration a range of stature from a two-year-old child to a 95th percentile male. The inflatable lap belt must provide a consistent approach to energy absorption throughout that range of occupants. In addition, the following situations must be considered.

The seat occupant is:

- Holding an infant
- a child in a child-restraint device
- a child not using a child-restraint device
- a pregnant woman

2. The inflatable lap belt must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system in the lap belt.

3. The design must prevent the inflatable lap belt from being either incorrectly buckled or incorrectly installed such that the inflatable lap belt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant, and will provide the required head-injury protection.

4. The inflatable lap-belt system must be shown not to be susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), likely to be experienced in service.

5. Deployment of the inflatable lap belt must not introduce injury mechanisms to the seated occupant, nor result in injuries that could impede rapid egress. This assessment should include an occupant who is in the brace position when it deploys, and an occupant whose inflatable lap belt is loosely fastened.

6. An inadvertent deployment that could cause injury to a standing or sitting person must be shown to be improbable.

7. It must be shown that inadvertent deployment of the airbag system in the lap belt, during the most critical part of the flight, either will not cause a hazard to the airplane or its occupants, or meets the requirement of § 25.1309(b).

8. The inflatable lap belt must be shown to not impede rapid egress of occupants 10 seconds after its deployment.

9. The inflatable lap-belt system must be protected from lightning and HIRF. The threats specified in existing regulations regarding lightning, § 25.1316, and HIRF, § 25.1317, are incorporated by reference for the purpose of measuring lightning and HIRF protection. For the purposes of complying with HIRF requirements, the inflatable lap-belt system is considered a ''critical system'' if its deployment could have a hazardous effect on the airplane; otherwise it is considered an ''essential'' system.

10. The inflatable lap belt must function properly after loss of normal airplane electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the lap belt does not have to be considered.

11. The inflatable lap belt must be shown to not release hazardous quantities of gas or particulate matter into the cabin.

12. The inflatable lap-belt installation must be protected from the effects of fire such that no hazard to occupants will result.

13. A means must be available for a crewmember to verify the integrity of the inflatable-lap-belt-activation system prior to each flight, or it must be demonstrated to reliably operate between inspection intervals.

14. The inflatable material may not have an average burn rate of greater than 2.5 inches per minute when tested using the horizontal-flammability test as defined in 14 CFR part 25, appendix F, section I(b)(5).

15. The airbag system in the lap belt, once deployed, must not adversely affect the emergency-lighting system (*i.e.,* block floor-proximity lights to the extent that the lights no longer meet their intended function).

Issued in Des Moines, Washington, on June 25, 2018.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–13999 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 170621579–8522–02]

RIN 0648–BG96

Fisheries of the Exclusive Economic Zone Off Alaska; Nontrawl Lead Level 2 Observers

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to modify specific provisions of the North Pacific Observer Program. The first two elements of this final rule implement requirements for an observer to obtain a nontrawl lead level 2 (LL2) deployment endorsement and implement a pre-cruise meeting requirement for vessels required to carry an observer with a nontrawl LL2 deployment endorsement. These two elements are intended to increase the number of observers that qualify for a nontrawl LL2 deployment endorsement and maintain observer safety and data quality. The third element of this final rule removes duplicative and unnecessary reporting requirements and makes minor changes to reduce observer requirements for specific vessels when participating in the Western Alaska Community Development Quota (CDQ) Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, and other applicable law.

DATES: Effective July 30, 2018.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) and the Categorical Exclusion prepared for this action are available from *www.regulations.gov* or from the NMFS Alaska Region website at *alaskafisheries.noaa.gov.* All public comment letters submitted during the comment period may be obtained from *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0071.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; and to OIRA by email to *OIRA_Submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Alicia M Miller, (907) 586–7228 or *alicia.m.miller@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and under the Fishery Management Plan for Groundfish of the

Bering Sea and Aleutian Islands Management Area (BSAI FMP). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

NMFS published the proposed rule for this action on December 27, 2017 (82 FR 61243), with comments invited through January 26, 2018.

NMFS received five comment letters during the applicable comment period. Four of these comment letters were on topics that were outside the scope of this action. One comment letter addressed the proposed rule and contained five substantive comments which are summarized and responded to under the heading ''Response to Comments'' below.

A detailed review of the provisions of the regulations to modify specific provisions of the North Pacific Observer Program (Observer Program) and the rationale for these regulations are provided in the preamble to the proposed rule (82 FR 61243, December 27, 2017) and are briefly summarized in this final rule.

Background

Regulations at subpart E of 50 CFR part 679 require that most vessels fishing for groundfish or halibut must carry an observer for some or all fishing activities to ensure the collection of data necessary to manage the groundfish and halibut fisheries.

The Observer Program is an integral component in the management of North Pacific fisheries. The Observer Program has two observer coverage categories: Partial and full. Regulations at 50 CFR 679.51 require vessels and processors in the full coverage category to carry an observer at all times when fish are caught or processed. This final rule affects catcher/processors in the full coverage category (*i.e.,* vessels that catch and process their own catch at-sea), and all motherships (*i.e.,* those vessels that receive unsorted catch from other vessels and process that catch at-sea). Owners of vessels or processors in the full coverage category must contract directly with a permitted observer provider and pay for required observer coverage. Two groups of vessels are required to carry an observer with a nontrawl LL2 deployment endorsement.

The first group of vessels includes vessels named on a License Limitation Program license with a Pacific cod catcher/processor hook-and-line endorsement for the Bering Sea, Aleutian Islands, or both the Bering Sea and Aleutian Islands (BSAI). These vessels are subject to monitoring requirements at 50 CFR 679.100 and are referred to as ''freezer longline vessels'' throughout this final rule. Pursuant to 50 CFR 679.100, a freezer longline vessel must carry an observer with a nontrawl LL2 deployment endorsement when the vessel (1) operates in either the BSAI or Gulf of Alaska groundfish fisheries and directed fishing for Pacific cod is open in the BSAI, or (2) when the vessel participates in the CDQ groundfish fisheries. These monitoring requirements for freezer longline vessels were implemented in 2012 and require freezer longline vessel owners and operators to select between one of two monitoring options: Either carry two observers so that all catch can be sampled, or carry one observer and use a motion-compensated flow scale to weigh Pacific cod before it is processed. Both monitoring options require the vessel to carry one observer endorsed as a nontrawl LL2 observer (77 FR 59053; September 26, 2012).

The second group of vessels that is required to carry an observer with a nontrawl LL2 deployment endorsement includes catcher/processors that use pot gear when participating in the CDQ groundfish fisheries (groundfish CDQ fishing) (77 FR 6492; February 8, 2012). These pot catcher/processors are required to carry an observer with a nontrawl LL2 deployment endorsement when groundfish CDQ fishing and may participate in other fisheries that do not require a nontrawl LL2 observer. Regulations at 50 CFR 679.32 describe the specific monitoring requirements for vessels when participating in the sablefish CDQ, pollock CDQ, and other groundfish CDQ fisheries.

Since 2014, observer providers contracted by vessels in the full coverage category have reported that they have been unable to create and retain an adequate pool of qualified nontrawl LL2 observers resulting in a diminishing pool of qualified observers employed by those observer providers. The requirements in this final rule are intended to increase the number of observers that qualify for a nontrawl LL2 deployment endorsement and thereby minimize additional costs to affected entities for an observer to obtain a nontrawl LL2 deployment endorsement. This final rule also implements provisions that are intended to maintain observer safety and data quality.

This Final Rule

This final rule includes three elements. The first element implements new sampling experience requirements for an observer to obtain a nontrawl LL2 deployment endorsement. These sampling requirements allow sampling experience on a trawl catcher/processor or mothership vessel to count toward a nontrawl LL2 deployment endorsement. These requirements also authorize the Observer Program to require additional training for observers as necessary to adequately prepare them to safely perform data collection duties relevant to the nontrawl LL2 deployment endorsement.

The second element of this final rule requires the operator or manager of a vessel that carries nontrawl LL2 observers to participate in a pre-cruise meeting with the observer assigned to the vessel if notified to do so by NMFS. This final rule requires freezer longline vessels and pot catcher/processors when groundfish CDQ fishing to notify the Observer Program prior to embarking on a trip with a nontrawl LL2 observer who has not deployed on that vessel in the past 12 months. Subsequently, the Observer Program may contact the vessel and require the vessel operator or manager and the observer assigned to the vessel to participate in a pre-cruise meeting prior to embarking on a trip.

The third element of this final rule removes duplicative and unnecessary reporting requirements and makes minor changes to reduce observer requirements for specific vessels participating in the CDQ Program.

Response to Comments

NMFS received five comment letters during the comment period. Four of these comment letters were outside the scope of this action. These letters raised issues not relevant to this rulemaking and are not addressed in this final rule. One comment letter directly addressed the proposed rule and contained five substantive comments that are summarized and responded to below. This comment letter was from the Freezer Longline Coalition (FLC) that represents members of the Freezer Longline Conservation Cooperative (FLCC), which includes freezer longline vessels impacted by this action.

Comment 1: We support implementing new requirements for an observer to obtain a nontrawl LL2 deployment endorsement, and for the operator or manager of a vessel required to carry an observer with a nontrawl LL2 deployment endorsement to participate in a pre-cruise meeting with

the observer if notified by NMFS to do so.

Response: NMFS acknowledges this comment.

Comment 2: We agree that increasing the number of observers that may qualify for a nontrawl LL2 deployment endorsement will reduce costs to vessel owners required to carry a nontrawl LL2 endorsed observer.

Response: NMFS acknowledges this comment.

Comment 3: NMFS' proposed rule did not include sufficient explanation about how the implementation of the nontrawl LL2 observer training class will result in enough observers receiving a nontrawl LL2 deployment endorsement to minimize additional costs to the industry.

Response: NMFS disagrees. The preamble to the proposed rule includes a description of the minimum and potential maximum demand for nontrawl LL2 observer training classes (82 FR 61243, December 27, 2017). As described in the preamble to the proposed rule and the RIR, observer providers and representatives of freezer longline vessels reported shortages in 2014 of nontrawl LL2 observers on freezer longline vessels, and that this shortage resulted in delayed fishing operations in some cases. This final rule provides a path for observers with sampling experience on trawl vessels to qualify for a nontrawl LL2 deployment endorsement. NMFS expects this to increase the availability of qualified nontrawl LL2 observers, which would reduce the potential for delayed fishing operations and would reduce costs associated with delays, such as costs for crew time, food, and missed fishing opportunities. Section 4.3.2 and Table 16 of the RIR and the preamble to the proposed rule include additional information about the costs to industry created by a shortage of nontrawl LL2 observers.

In addition, the proposed rule cites the best scientific information available, and Section 3.3.5 of the RIR provided a description of the estimated costs to the freezer longline fleet due to the shortage of nontrawl LL2 endorsed observers. Specifically, Section 3.3.5 of the RIR summarizes the costs of voluntarily carrying a second observer to allow the observer to gain experience required for a nontrawl LL2 deployment endorsement. That cost is estimated to be $11,130 per observer for a 30-day trip. NMFS estimated this cost per trip by using information provided in Table 16 of the RIR. NMFS multiplied the estimated length of a freezer longline trip (30 days) by the estimated cost per day to deploy an observer ($371). NMFS then multiplied that total by the number of trips for which a freezer longline vessel voluntarily carried a second observer to obtain the total annual estimated cost.

NMFS expects that the cost for an observer with the requisite experience aboard a vessel using trawl gear to obtain a LL2 deployment endorsement through a two to three day training course will be significantly lower than the cost associated with a 30-day deployment. Based on the best available scientific information, NMFS anticipates that providing at least one nontrawl LL2 observer training class annually will meet the demand for additional nontrawl LL2 deployment endorsements, and freezer longline vessels will not need to voluntarily carry a second observer and incur associated additional costs.

In addition, the Observer Program routinely determines the training necessary for an observer to receive certification, annual endorsements and deployment endorsements, and responds to requests from observer providers to schedule training classes at NMFS facilities. The Observer Program may adjust the number of nontrawl LL2 training classes offered each year if required to meet demand.

Comment 4: NMFS should not apply the Small Business Administration (SBA) principles of affiliation for the purpose of determining if members of the FLCC are considered small entities under the Regulatory Flexibility Act (RFA). In addition, SBA's principles are not the best guide for considering affiliation for RFA analyses performed by NMFS.

Response: NMFS disagrees. Under Executive Order 13272, signed on August 13, 2002, the SBA's Office of Advocacy is directed to provide Federal agencies with training and information on how to comply with the RFA. The SBA provides information about how to comply with the RFA through its regulations at 13 CFR part 121 and guidance posted on its website at *www.sba.gov.* Therefore, it is appropriate for NMFS to apply regulations and guidelines developed by the SBA in classifying entities for RFA analyses.

Based on the contractual relationships, recognized since the formation of the FLCC in August 2010, NMFS determined that all members of the FLCC are affiliated as described under 13 CFR 121.103(f) for the purpose of analyses prepared under the RFA. This application of the SBA principles of affiliation is consistent with how NMFS has applied this size standard to vessels and processors in fishing cooperatives in the North Pacific since at least 2001 (66 FR 65028; December 17, 2001). NMFS has applied this same determination to vessels and processors in fishing cooperatives under the American Fisheries Act, the Crab Rationalization Program, the Amendment 80 Program, the Gulf of Alaska Rockfish Program, and for the FLCC.

The FLCC is a registered active non-profit corporation in the State of Washington and, through the FLC, maintains an active website identifying all member vessels (*http://www.freezerlonglinecoalition.com/members.html*). In addition, the FLC affirms that the FLCC operates as a voluntary fishery cooperative in its letter of comment on the proposed rule by stating that ''All members of the FLC [Freezer Longline Coalition] are also members of the Freezer Longline Conservation Cooperative (FLCC), a voluntary fishing cooperative established in 2010.''

Thus, NMFS maintains that the members of the FLCC are recognized as members of a voluntary fishing cooperative with a single identity of interest in the harvest of the annual allocation of Pacific cod to the BSAI freezer longline vessels such that interests should be aggregated for the purpose of analysis prepared under the RFA. The contractual relationship among vessels in the cooperative allows members to work together to more efficiently harvest fishery allocations. The ability to plan ahead, cooperate in harvest decisions, and share some expenses constitutes a degree of economic dependence not available to independent fishing vessels. In addition, the conclusion that the members of the FLCC are affiliated for purposes of the RFA is consistent with previous actions implemented since the formation of the FLCC in 2010 and impacting the same fleet prosecuting the same resources (77 FR 59053, September 26, 2012; 77 FR 58775, September 24, 2012; 79 FR 603, January 6, 2014; 79 FR 68610, November 18, 2014).

Comment 5: NMFS incorrectly classifies freezer longline vessels as predominantly engaged in fish harvesting rather than fish processing for the purpose of analysis required under the RFA. The commenter asserts that catcher/processors should be classified as predominantly involved in fish processing and the associated threshold of employing 750 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations worldwide should be applied to determine if an entity is considered small under the RFA.

Response: NMFS disagrees. As described in the response to Comment 4, all freezer longline vessels impacted by this action are members of the FLCC. In a letter received by NMFS on May 19, 2011 from the FLCC, the FLCC describes itself as a voluntary fishing cooperative with the purpose of ''promoting, fostering, and encouraging the intelligent and orderly harvest of Pacific cod and other groundfish species in the Bering Sea/Aleutian Islands longline fisheries off Alaska . . .'' The FLCC's description of its members refers to coordinating the harvest of finfish and does not refer to processing as a primary activity. Further, the members of the FLCC have exclusive harvesting rights to the annual allocation in the BSAI to the defined class of longline catcher/processor subsector participants rather than exclusive processing rights. Additionally, none of the FLCC members purchase unprocessed catch for the sole purpose of increasing processing activity; therefore, the processing activity of an individual freezer longline vessel is limited by its harvesting activity. Without the primary harvesting activity, the secondary processing activity does not occur. For these reasons, NMFS affirms its determination that, for purposes of RFA analyses, the freezer longline vessels affected by this action are primarily engaged in commercial fishing. Therefore, it is appropriate for NMFS to classify freezer longline vessels in the commercial fishing industry category (NAICS 11411), and to apply the small business size standard of $11 million in annual gross receipts to the group of affiliated vessels.

Changes From Proposed to Final Rule

NMFS made three changes to this final rule. These changes provide minor clarifications that do not substantively modify the regulations as proposed.

The first change adds the word ''either'' and the regulatory text in paragraph (a)(5)(v)(C)(*4*) of the proposed rule to paragraph § 679.53(a)(5)(v)(C)(*3*) to clarify that either one of the two minimum sampling experience requirements may satisfy one of the three conditions set forth in paragraph (a)(5)(v)(C) necessary to deploy as a nontrawl lead level 2 observer.

The second change adds the words ''at least'' to § 679.53(a)(5)(v)(C)(*3*) to clarify that at least 100 or more sampled hauls on catcher/processors using trawl gear satisfies the minimum sampling experience requirement specified in this paragraph.

The third change correctly identifies the locations in 50 CFR part 679 where the term ''Observer Program Office'' will be replaced with the term ''Observer Program'' by including § 679.52(a)(2), (b)(1)(iii)(A), (b)(2)(iv), (b)(3)(ii)(B), and (b)(8) introductory text. These paragraphs were inadvertently incorrectly listed in the table as paragraphs of § 679.51 in the proposed rule.

OMB Revisions to PRA References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires that agencies inventory and display a current control number assigned by the Director of the Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB control numbers have been issued. Because this final rule revises and adds data elements within a collection-of-information for recordkeeping and reporting requirements, this final rule includes revisions to 15 CFR 902.1(b) to correctly reference the control number and associated regulation sections included in this final rule.

Classification

The Administrator, Alaska Region, NMFS, has determined that this final rule is necessary for the conservation and management of the groundfish fishery and is consistent with the GOA and BSAI FMPs, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this final rule will not have a significant economic impact on a substantial number of small entities. NMFS published a proposed rule on December 27, 2017 (82 FR 61243). An IRFA was prepared and included in the ''Classification'' section of the preamble to the proposed rule. The comment period closed on January 26, 2018. NMFS received five letters of comment on the proposed rule. One comment letter contained two comments on the IRFA, which are summarized in the ''Response to Comments'' section (Comments 4 and 5). The comments on the IRFA were considered by NMFS in the decision to certify this final rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

The factual basis for certification of this final rule is described below. This action includes three elements that modify specific provisions of the Observer Program. The first element modifies sampling experience requirements for an observer to obtain a nontrawl LL2 deployment endorsement. The second element requires the operator or manager of a vessel required to carry an observer with a nontrawl LL2 deployment endorsement to participate in a pre-cruise meeting when notified to do so by NMFS. The third element removes duplicative and unnecessary reporting requirements and makes minor changes to reduce or remove observer-related requirements for specific vessels when participating in the CDQ Program.

This action directly regulates observers and owners and operators of the following vessels: (1) Freezer longline vessels that participate in the BSAI hook-and-line Pacific cod fishery; and (2) pot catcher/processors, trawl catcher/processors, nontrawl catcher/processors, and motherships when groundfish CDQ fishing. For reasons explained in more detail in the IRFA and in responses to Comment 4 and Comment 5 in the preamble to this final rule, NMFS has determined that there are no small entities directly regulated by this final rule.

In addition, this action is expected to reduce the cost for vessels to comply with observer coverage requirements and is not expected to impose significant costs of complying with new reporting requirements. This action will benefit all affected vessels by increasing the number of observers that may qualify for a nontrawl LL2 deployment endorsement and will remove observer-related requirements for specific vessels when participating in the CDQ Program.

For all of these reasons, this action is not expected to have a significant economic impact on a substantial number of small entities. As a result, a final regulatory flexibility analysis is not required, and none has been prepared. The economic analysis contained in the RIR (see **ADDRESSES**) and in the IRFA included in the ''Classification'' section of the proposed rule prepared for this action further describes the regulatory and operational characteristics of the affected vessels, including the history of this action, and the details of the alternatives considered for this action, including the preferred alternative.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0318 (North Pacific Observer Program). The public reporting burden for these

collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This final rule will require that the Observer Program be notified by phone at least 24 hours prior to departure when a vessel will carry an observer who has not deployed on that vessel in the past 12 months. Public reporting burden per response to notify the Observer Program by phone is estimated to be five minutes.

Send comments on these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS Alaska Region (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov,* or by fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: June 26, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', add entries in alphanumeric order for ''679.84(c)(7)'' and ''679.93(c)(7)''; remove the entry for ''679.100 (a) and (b)''; and add entries in alphanumeric order for ''679.100(a)'' and ''679.100(b)'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.84(c)(7)	–0318.
* * * * *	
679.93(c)(7)	–0318.
* * * * *	
679.100(a)	–0330 and –0515.
679.100(b)	–0318, –0330, and –0515.
* * * * *	

* * * * *

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 4. In § 679.2:

■ a. Remove the definition for ''Observer Program Office''; and

■ b. Add the definitions for ''Cruise'' and ''Observer Program'' in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Cruise means an observer deployment with a unique cruise number. A cruise begins when an observer receives an endorsement to deploy and ends when the observer completes all debriefing responsibilities.

* * * * *

Observer Program means the administrative office of the North Pacific Observer Program located at the Alaska Fisheries Science Center (See § 679.51(c)(3) for contact information).

* * * * *

■ 5. In § 679.32:

■ a. Remove and reserve paragraphs (c)(3)(i)(B)(*2*), (c)(3)(i)(C)(*2*), and (c)(3)(i)(E)(*2*); and

■ b. Add paragraph (c)(3)(i)(E)(*4*) to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(E) * * *

(*4*) Notify the Observer Program by phone at 1 (907) 581–2060 (Dutch Harbor, AK) or 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

* * * * *

■ 6. Revise the heading of subpart E to read as follows:

Subpart E—North Pacific Observer Program

■ 7. In § 679.50, revise paragraph (a)(2) to read as follows:

§ 679.50 Applicability.

(a) * * *

(2) *Exceptions.* A catcher vessel is not subject to the requirements of this subpart when delivering unsorted codends to a mothership.

* * * * *

■ 8. In § 679.51, revise paragraph (a)(2)(vi)(A)(*5*) to read as follows:

§ 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

(a) * * *

(2) * * *

(vi) * * *

(A) * * *

(*5*) *Motherships.* A mothership that receives unsorted codends from catcher vessels groundfish CDQ fishing must have at least two observers aboard the mothership, at least one of whom must be endorsed as a lead level 2 observer. More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.

* * * * *

■ 9. In § 679.53:

■ a. Remove and reserve paragraph (a)(5)(v)(B); and

■ b. Revise paragraph (a)(5)(v)(C) to read as follows:

§ 679.53 Observer certification and responsibilities.

(a) * * *

(5) * * *

(v) * * *

(C) A lead level 2 observer on a vessel using nontrawl gear must have completed the following:

(*1*) Two observer cruises (contracts) of at least 10 days each;

(*2*) Successfully completed training or briefing as prescribed by the Observer Program; and

(*3*) Either sampled at least 30 sets on a vessel using nontrawl gear or sampled at least 100 hauls on a catcher/processor using trawl gear or on a mothership.

* * * * *

§§ 679.51, 679.52, and 679.53 [Amended]

■ 10. In the table below, for each section indicated in the ''Location'' column, remove the phrase indicated in the ''Remove'' column from wherever it appears in the section and add the word indicated in the ''Add'' column:

Location	Remove	Add	Frequency
§ 679.51(a)(2)(vi)(B)(*1*), (a)(2)(vi)(B)(*3*), (a)(2)(vi)(B)(*4*), (a)(2)(vi)(C), (a)(2)(vi)(D)(*1*), (a)(2)(vi)(D)(*2*), and (a)(2)(vi)(E)(*1*).	certified	endorsed	1
§ 679.51(c)(3)	Observer Program Office	Observer Program	1
§ 679.52(a)(2), (b)(1)(iii)(A), (b)(2)(iv), (b)(3)(ii)(B), and (b)(8) introductory text.	Observer Program Office	Observer Program	1
§ 679.52(b)(11) introductory text	Observer Program Office	Observer Program	2
§ 679.52(b)(11)(i) introductory text, (b)(11)(ii), (b)(11)(iii), and (b)(11)(vi) introductory text.	Observer Program Office	Observer Program	1
§ 679.52(b)(11)(vii) introductory text	Observer Program Office	Observer Program	3
§ 679.52(b)(11)(viii) introductory text, (b)(11)(viii)(A), (b)(11)(ix), (b)(11)(x) introductory text, and (b)(12).	Observer Program Office	Observer Program	1
§ 679.53(a)(1)	Observer Program Office	Observer Program	1
§ 679.53(a)(5)(v) introductory text, and (a)(5)(v)(A)	''lead''	lead	1
§ 679.53(b)(2)(i)	Observer Program Office	Observer Program	1

■ 11. In § 679.84, revise paragraph (c)(7) to read as follows:

§ 679.84 Rockfish Program Recordkeeping, permits, monitoring, and catch accounting.

* * * * *

(c) * * *

(7) *Pre-cruise meeting.* The Observer Program is notified by phone at 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

* * * * *

■ 12. In § 679.93, revise paragraph (c)(7) to read as follows:

§ 679.93 Amendment 80 Program recordkeeping, permits, monitoring, and catch accounting.

* * * * *

(c) * * *

(7) *Pre-cruise meeting.* The Observer Program is notified by phone at 1 (907) 581–2060 (Dutch Harbor, AK) or 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

* * * * *

■ 13. In § 679.100, add paragraphs (b)(1)(v) and (b)(2)(i)(E) to read as follows:

§ 679.100 Applicability.

* * * * *

(b) * * *

(1) * * *

(v) The Observer Program is notified by phone at 1 (907) 581–2060 (Dutch Harbor, AK) or 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

(2) * * *

(i) * * *

(E) The Observer Program is notified by phone at 1 (907) 581–2060 (Dutch Harbor, AK) or 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

* * * * *

[FR Doc. 2018–14071 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AD53

Adaptation of Regulations to Incorporate Swaps; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendments.

SUMMARY: On November 2, 2012, the Commodity Futures Trading Commission revised its rules. That document inadvertently failed to remove several obsolete provisions in the regulation. This document corrects the final regulations.

DATES: Effective on June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Jacob Chachkin, Special Counsel, 202–418–5496, email: *jchachkin@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 2012 (77 FR 66287), the Commodity Futures Trading Commission published final rules adopting new regulations to implement particular provisions of the

Commodity Exchange Act, as added by the Dodd-Frank Wall Street Reform and Consumer Protection Act. That document inadvertently failed to remove several obsolete provisions in § 1.33(a)(2) and (b)(3). Accordingly, the Commission is making a correcting amendment to § 1.33 that removes the second paragraph (a)(2)(ii), removes paragraph (a)(2)(v), and removes the introductory clause to paragraph (b)(3).

List of Subjects in 17 CFR Part 1

Agricultural commodity, Agriculture, Brokers, Committees, Commodity futures, Conflicts of interest, Consumer protection, Definitions, Designated contract markets, Directors, Major swap participants, Minimum financial requirements for intermediaries, Reporting and recordkeeping requirements, Swap dealers, Swaps.

Accordingly, 17 CFR part 1 is corrected by making the following correcting amendments:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

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

■ 2. Amend § 1.33 as follows:
■ a. Revise paragraph (a)(2); and
■ b. Revise paragraph (b)(3) introductory text.

The revisions read as follows:

§ 1.33 Monthly and confirmation statements.

(a) * * *

(2) For each commodity option position and foreign option position—

(i) All commodity options and foreign options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying futures contract or underlying commodity, strike price, transaction date, and expiration date;

(ii) The open commodity option and foreign option positions carried for such customer or foreign futures or foreign options customer as of the end of the monthly reporting period, identified by underlying futures contract or underlying commodity, strike price, transaction date, and expiration date;

(iii) All open commodity option and foreign option positions marked to the market and the amount each position is in the money, if any; and

(iv) Any related customer funds carried in such customer's account(s) or any related foreign futures or foreign options secured amount carried in the account(s) of a foreign futures or foreign options customer.

* * * * *

(b) * * *

(3) A written confirmation of each commodity option transaction, containing at least the following information:

* * * * *

Dated: June 15, 2018.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–13256 Filed 6–28–18; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2012–N–0447]

Antimicrobial Animal Drug Sales and Distribution Reporting; Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a final guidance for industry #252 entitled ''Antimicrobial Animal Drug Sales and Distribution Reporting Small Entity Compliance Guide.'' The small entity compliance guide (SECG) is intended to help small entities comply with the final rule we issued in the **Federal Register** of May 11, 2016, entitled ''Antimicrobial Animal Drug Sales and Distribution Reporting.''

DATES: The announcement of the guidance is published in the **Federal Register** on June 29, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2012–N–0447 for ''Antimicrobial Animal Drug Sales and Distribution Reporting; Small Entity Compliance Guide.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and

contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of the SECG to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: Sujaya Dessai, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5671, *sujaya.dessai@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Sponsors of approved or conditionally approved applications for new animal drugs containing an antimicrobial active ingredient are required by section 512 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b), as amended by section 105 of the Animal Drug Use Fee Amendments of 2008 (ADUFA 105) (Pub. L. 110–316), to submit to us an annual report on the amount of each such ingredient in the drug that is sold or distributed for use in food-producing animals. We are also required by ADUFA 105 to publish annual summary reports of the data we receive from animal drug sponsors. In accordance with the law, sponsors of the affected antimicrobial new animal drug products began submitting their sales and distribution data to us on an annual basis, and we have published summaries of such data for each calendar year beginning with 2009.

In the **Federal Register** of May 11, 2016 (81 FR 29129), we published a final rule entitled ''Antimicrobial Animal Drug Sales and Distribution Reporting'' that amended our existing records and reports regulation in part 514 (21 CFR part 514) to incorporate the sales and distribution data reporting requirements specific to antimicrobial new animal drugs that were added to the FD&C Act by ADUFA 105. The rule also added an additional reporting provision intended to improve our understanding of antimicrobial animal drug sales intended for use in specific food-producing animal species. In accordance with the new rule, the sponsor of each approved or conditionally approved new animal drug product that contains an antimicrobial active ingredient must submit an annual report to us on the amount of each such ingredient in the drug product that is sold or distributed for use in food-producing animals, including information on any distributor-labeled product. The final rule, which is codified at §§ 514.80 and 514.87, became effective July 11, 2016.

We examined the economic implications of the final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612) and determined that the final rule will not have a significant economic impact on a substantial number of small entities (81 FR 29129 at 29138). Nonetheless, we determined not to certify that finding due to the remote possibility that, in the future, a very small company could enter the market and sponsor an application for an antimicrobial new animal drug product that would be sold or distributed for use in food-producing animals. Thus, in compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, as amended by Pub. L. 110–28), we are making available this SECG to explain the actions that a potential future market entrant small entity must take to comply with the rule.

We are issuing this SECG consistent with our good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 514.87 have been approved under OMB control number 0910–0659. The collections of information in § 514.80 have been approved under OMB control number 0910–0284.

III. Electronic Access

Persons with access to the internet may obtain the SECG at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov*.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14085 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2016–0012; T.D. TTB–151; Ref: Notice No. 166]

RIN 1513–AC33

Establishment of the Dahlonega Plateau Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 133-square mile Dahlonega Plateau viticultural area in portions of Lumpkin and White counties in Georgia. The Dahlonega Plateau viticultural area is not located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective July 30, 2018.

FOR FURTHER INFORMATION CONTACT: Dana Register, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 022.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and regulates the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Dahlonega Plateau Petition

TTB received a petition from Amy Booker, President of the Dahlonega-Lumpkin Chamber & Visitors Bureau, on behalf of the Vineyard and Winery Operators of the Dahlonega Region of Northern Georgia. The petitioner is proposing the establishment of the ''Dahlonega Plateau'' AVA in portions of Lumpkin and White counties in Georgia.

The proposed Dahlonega Plateau AVA derives its name from a long, narrow, northeast-southwest trending plateau in the northern foothills of the Georgia Piedmont known as the Dahlonega Plateau. The plateau covers most of Lumpkin, Dawson, White, Pickens, and Cherokee Counties. However, the proposed AVA is limited to the northeastern portion of the plateau, in Lumpkin and White Counties, due to a lack of viticulture in the southwestern region of the plateau, as well topographical and climatic differences.

The proposed Dahlonega Plateau AVA covers approximately 133 square miles and is not located within any other AVA. The petition notes that, at present, there are 7 wineries and 8 commercial vineyards covering a total of approximately 110 acres distributed throughout the proposed AVA. In the next few years, the proposed AVA would likely be expanded by an additional 12 acres of vineyards. According to the petition, the distinguishing features of the proposed Dahlonega Plateau AVA are its topography and climate. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this final rule comes from the petition for the proposed Dahlonega Plateau AVA and its supporting exhibits.

Topography

According to the petition, the distinctive topography of the proposed AVA is due to the underlying geology, which is comprised of layers of rocks that weather uniformly and are moderately resistant to erosion. Over time, wind and water have gradually worn down the underlying rocks and formed a gently rolling landscape with an average elevation of approximately 1,554 feet above sea level. The resulting broad, rounded hilltops separated by wide valleys have moderate slope angles and adequate sunlight for the cultivation of vineyards.

By contrast, the petition states that the topography of the regions surrounding the proposed AVA are less suitable for vineyards. The Blue Ridge Mountains and Hightower Ridges to the north, east, and southeast of the proposed AVA generally have higher elevations and narrow valleys that are often shadowed by the surrounding steep, high slopes. The steep, high slopes allow less light to reach any vineyard planted on the valley floors, when compared to vineyards planted in the proposed AVA. The steepness of the slopes would also make mechanical cultivation of any vineyard planted on the sides of the mountains impractical. In the lower elevations of the regions to the south and west of the proposed AVA, the cool air draining from higher elevations eventually settles and pools and would increase the risk of frost damage in any vineyard planted there.

Climate

The petition for the proposed Dahlonega Plateau AVA provided climate information including length of the growing season, growing degree day accumulations, and precipitation amounts from within the proposed AVA and the surrounding regions.

Length of Growing Season

According to the petition, the proposed Dahlonega Plateau AVA has a mean growing season length of 195 days. Over 60 percent of the terrain

within the proposed AVA has a growing season length in the range of 190 to 200 days. The petition cited a publication by the College of Agriculture and Life Sciences at Cornell University in conjunction with the Institute for the Application of Geospatial Technology,[1] which states that sites with growing seasons between 190 and 200 days are ''not limited by growing season'' because most grape varietals will be able to ripen within 200 days, while sites with growing seasons shorter than 160 days are not recommended for vineyards because most grape varietals would not have time to ripen fully. Based on this guidance, the petition proposes that the vineyard owners can plant many different grape varietals in the majority of the proposed AVA without the fear of having too short of a growing season for the grapes to ripen.

The petition also provided the growing season lengths for the areas surrounding the proposed AVA. The regions to the north and northeast each have a mean growing season of 164 days. Regions to the west and south, have growing seasons of 201 and 203 to 205 days, respectively. The proposed AVA has a higher percentage of terrain with a growing season length between 190 and 200 days than all surrounding areas except the Hightower Ridges to the east, where approximately 76 percent of the terrain is within this range of growing season lengths.

Growing Degree Days

The petition noted that although growing season length is important because it reflects the number of frost-free days, the temperatures that are reached during that frost-free period are just as important to viticulture. The petition further stated that grape vines do not grow and fruit does not mature when temperatures are below 50 degrees Fahrenheit (F). Therefore, a region that has a 180-day frost-free growing season would still be unsuitable for viticulture if temperatures seldom or never rise above 50 degrees F.

The petition presented growing degree days (GDD) data using the Winkler zone scale [2] from the very cool Zone I, for regions accumulating 2,500 or fewer GDDs in a growing season, to the very warm Zone V, for regions accumulating over 4,000 GDDs. The data showed that the terrain within the proposed Dahlonega Plateau AVA is classified in the intermediate ranges of the Winkler scale (Zones III and IV). The proposed AVA has a higher percentage of terrain within Zone IV than any of the surrounding regions and lacks any terrain in the very cool Zone I, the cool Zone II, or the very warm Zone V. The petition indicated, that regions classified as Zones III or IV, such as the proposed AVA, are suitable for growing a diverse range of late-ripening grape varietals.

Precipitation

According to the petition, the rising elevations of the proposed Dahlonega Plateau AVA and the regions to the north and east cause the moisture-laden winds travelling inland from the Gulf of Mexico and Atlantic Ocean to drop their rain in the proposed AVA. Annual rainfall amounts within the proposed AVA are approximately 62 inches per year and 17 inches during the winter months. The regions to the north and east generally receive more rainfall annually and during winter than the proposed AVA, and the regions to the south and west generally receive less. The petition stated that the proposed AVA receives adequate annual rainfall amounts, which make vineyard irrigation seldom necessary. Furthermore, the petition provides data collected from the proposed AVA and surrounding regions showing that the low winter rainfall amounts within the proposed AVA are relevant to viticulture because, when compared to the data from the surrounding regions, low levels of rain in winter in the proposed AVA reduce the possibility of a delayed bud break and subsequent later harvest.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 166 in the **Federal Register** on December 2, 2016 (81 FR 86980), proposing to establish the Dahlonega Plateau AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 166 and the petition for the proposed AVA, which are posted in Docket No. TTB–2016–0012 at *http://www.regulations.gov*. In Notice No. 166, TTB solicited comments on whether it should establish the proposed viticultural area, and also asked for comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on January 31, 2017.

In response to Notice No. 166, TTB received one comment, which supported the proposed AVA. The commenter stated that the Dahlonega plateau is a ''gorgeous mountain region'' that has ''unique wine-growing characteristics'' that qualify it as an AVA.

TTB Determination

After careful review of the petition and the comment received in response to Notice No. 166, TTB finds that the evidence provided by the petitioner supports the establishment of the Dahlonega Plateau AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the ''Dahlonega Plateau'' AVA in Lumpkin and Whites counties of Georgia, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Dahlonega AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

[1] A.N. Lakso & T.E. Martinson, ''The Basics of Vineyard Site Evaluation and Selection'' (2014), available at *http://arcserver2.iagt.org/vll/downloads/BasicSiteEvaluation-2015.pdf.*

[2] A.J. Winkler *et al.*, General Viticulture 60–71 (2nd. Ed. 1974).

With the establishment of this AVA, its name, ''Dahlonega Plateau,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations. The text of the regulation clarifies this point. Consequently, wine bottlers using the name ''Dahlonega Plateau'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. The establishment of the Dahlonega Plateau AVA will not affect any existing AVA. The establishment of the Dahlonega Plateau AVA will allow vintners to use ''Dahlonega Plateau'' as an appellation of origin for wines made primarily from grapes grown within the Dahlonega Plateau AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Dana Register of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.263 to read as follows:

§ 9.263 Dahlonega Plateau.

(a) *Name.* The name of the viticultural area described in this section is ''Dahlonega Plateau''. For purposes of part 4 of this chapter, ''Dahlonega Plateau'' is a term of viticultural significance.

(b) *Approved maps.* The 9 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Dahlonega Plateau viticultural area are titled:

(1) Dawsonville, GA, 1997;
(2) Campbell Mountain, GA, 2014;
(3) Nimblewill, GA, 1997;
(4) Noontootla, GA, 1988;
(5) Suches, GA, 1988;
(6) Neels Gap, GA, 1988;
(7) Dahlonega, GA, 1951;
(8) Cowrock, GA, 1988; and
(9) Cleveland, GA, 1951; photo revised 1973; photo inspected 1981.

(c) *Boundary.* The Dahlonega Plateau viticultural area is located in Lumpkin and White Counties, Georgia. The boundary of the Dahlonega Plateau viticultural area is as described below:

(1) The beginning point is found on the Dawsonville map at the marked 1,412-foot elevation point at the intersection of an unnamed light-duty road known locally as Castleberry Bridge Road and an unimproved road known locally as McDuffie River Road.

(2) From the beginning point, proceed north-northeast in a straight line approximately 0.89 mile to the marked 1,453-foot elevation point; then

(3) Proceed northwest in a straight line approximately 1.94 miles, crossing onto the Campbell Mountain map, to the intersection of Arrendale Road and Windy Oaks Road; then

(4) Proceed northwest in a straight line approximately 0.77 mile to the intersection of the 1,400-foot elevation contour and Dennson Branch; then

(5) Proceed northwest in a straight line approximately 0.79 mile to the intersection of the 1,360-foot elevation contour and Mill Creek; then

(6) Proceed northwest in a straight line approximately 0.48 mile to the intersection of the 1,500-foot elevation contour and Sheep Wallow Road; then

(7) Proceed northwest in a straight line approximately 1.74 miles to the intersection of State Route 52 and the Chattahoochee National Forest boundary; then

(8) Proceed northwest in a straight line approximately 1.89 miles, crossing onto the Nimblewill map and then crossing over the marked 1,749-foot elevation point along an unnamed light duty road known locally as Nimblewill Church Road, to the line's intersection with the 1,800-foot elevation contour; then

(9) Proceed generally east-northeast along the 1,800-foot elevation contour approximately 170.72 miles (straight line distance between points is approximately 20.43 miles), crossing over the Noontootla, Suches, Neels Gap and Dahlonega maps and onto the Cowrock map, to the intersection of the 1,800-foot elevation contour with Tom White Branch; then

(10) Proceed southeast along Tom White Branch approximately 0.73 mile to the 1,600-foot elevation contour; then

(11) Proceed southeast in a straight line approximately 1.10 miles to the intersection of Cathey Creek and the secondary highway marked Alt. 75; then

(12) Proceed southwest in a straight line approximately 3.77 miles, crossing into the Cleveland map, to the intersection of two unnamed light-duty roads known locally as Dockery Road and Town Creek Road; then

(13) Proceed south in a straight line approximately 0.58 mile to the marked 1,774-foot elevation point; then

(14) Proceed southwest in a straight line approximately 0.60 mile to the 1,623-foot benchmark; then

(15) Proceed southwest in a straight line approximately 2.73 miles, crossing into the Dahlonega map, to the 1,562-foot benchmark, then

(16) Proceed southwest in a straight line approximately 3.46 miles to the marked 1,480-foot elevation point near the Mt. Sinai Church; then

(17) Proceed southwest in a straight line approximately 2.13 miles to the summit of Crown Mountain; then

(18) Proceed west in a straight line approximately 1.28 miles, crossing onto the Campbell Mountain map, to the intersection of the 1,160-foot elevation contour and Cane Creek; then

(19) Proceed southwest in a straight line approximately 1.61 miles to the intersection of the 1,300-foot elevation contour and Camp Creek; then

(20) Proceed southwest in a straight line approximately 2.02 miles, crossing into the Dawsonville map, to the intersection of the 1,200-foot elevation contour with the Etowah River, then

(21) Proceed southwest in a straight line approximately 1.29 miles to the beginning point.

Signed: March 6, 2018.

John J. Manfreda,

Administrator.

Approved: June 25, 2018.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2018–14035 Filed 6–28–18; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards

CFR Correction

In Title 29 of the Code of Federal Regulations, Parts 1910 to § 1910.999, revised as of July 1, 2017, on page 247, in § 1910.106, paragraph (d)(2)(iii) introductory text is revised to read as follows:

§ 1910.106 Flammable liquids.

* * * * *

(d) * * *

(1) * * *

(2) * * *

(iii) *Size.* Flammable liquid containers shall be in accordance with Table H–12, except that glass or plastic containers of no more than 1-gallon capacity may be used for a Category 1 or 2 flammable liquid if:

* * * * *

[FR Doc. 2018–14144 Filed 6–28–18; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 596

Removal of the Sudanese Sanctions Regulations and Amendment of the Terrorism List Government Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is removing from the Code of Federal Regulations the Sudanese Sanctions Regulations as a result of the revocation of certain provisions of one Executive Order and the entirety of another Executive Order on which the regulations were based. OFAC is also amending the Terrorism List Government Sanctions Regulations to incorporate a general license authorizing certain transactions related to exports of agricultural commodities, medicines, and medical devices, which has, until now, appeared only on OFAC's website.

DATES: *Effective:* June 29, 2018.

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 General Counsel: Office of the Chief Counsel (Foreign Assets Control); tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

Removal of the Sudanese Sanctions Regulations

On November 3, 1997, the President issued Executive Order 13067, ''Blocking Sudanese Government Property and Prohibiting Transactions With Sudan'' (E.O. 13067), declaring a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the policies and actions of the Government of Sudan. E.O. 13067 blocked all property and interests in property of the Government of Sudan that were in the United States, that thereafter came within the United States, or that thereafter came within the possession or control of United States persons. E.O. 13067 also prohibited: (a) The importation into the United States of any goods or services of Sudanese origin; (b) the exportation or reexportation, directly or indirectly, to Sudan of goods, technology, or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency; (c) the facilitation by a United States person of the exportation or reexportation of goods, technology, or services to or from Sudan; (d) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (e) the grant or extension of credits or loans by any United States person to the Government of Sudan; (f) any transaction by a United States person relating to transportation of cargo to or from Sudan; and (g) any transaction by any United States person, or within the United States that evaded or avoided, or had the purpose of evading or avoiding, or attempted to violate any of the prohibitions set forth in E.O. 13067.

On July 1, 1998, OFAC issued the Sudanese Sanctions Regulations, 31 CFR part 538 (SSR), as a final rule to implement E.O. 13067. The SSR were amended on various occasions to, among other things, implement further Executive orders and add additional authorizations.

On April 26, 2006, in Executive Order 13400 (E.O. 13400), the President determined that the conflict in Sudan's Darfur region posed an unusual and extraordinary threat to the national security and foreign policy of the United States, expanded the scope of the national emergency declared in E.O. 13067 to deal with that threat, and ordered the blocking of property of certain persons connected to the conflict. On May 28, 2009, OFAC issued the Darfur Sanctions Regulations, 31 CFR part 546 (DSR), as a final rule to implement E.O. 13400. On October 13, 2006, the President issued Executive Order 13412 (E.O. 13412) to take additional steps with respect to the national emergency and to implement the Darfur Peace and Accountability Act of 2006, Public Law 109–344, 120 Stat. 1869.

On January 13, 2017, President Obama issued Executive Order 13761, ''Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions'' (E.O. 13761). In E.O. 13761, President Obama found that the situation that gave rise to the actions taken in E.O.s 13067 and 13412 related to the policies and actions of the Government of Sudan had been altered by Sudan's positive actions over the prior six months. These actions included a marked reduction in offensive military activity, culminating in a pledge to maintain a cessation of hostilities in conflict areas in Sudan, and steps toward the improvement of humanitarian access throughout Sudan, as well as cooperation with the United States on addressing regional conflicts and the threat of terrorism. Given these developments, and in order to see these efforts sustained and enhanced by the Government of Sudan, President Obama ordered that, effective July 12, 2017, sections 1 and 2 of E.O. 13067 be revoked, and E.O. 13412 be revoked in its entirety, provided that a review before that date determined certain criteria were met.

On July 11, 2017, President Trump issued Executive Order 13804, ''Allowing Additional Time for Recognizing Positive Actions by the Government of Sudan and Amending Executive Order 13761'' (E.O. 13804). In E.O. 13804, President Trump amended E.O. 13761, extending until October 12,

2017, the review period established by E.O. 13761. This review period provided for the revocation of certain sanctions if the Government of Sudan sustained the positive actions that gave rise to E.O. 13761, including carrying out a pledge to maintain a cessation of hostilities in conflict areas in Sudan; continuing improvement of humanitarian access throughout Sudan; and maintaining its cooperation with the United States on addressing regional conflicts and the threat of terrorism.

On October 11, 2017, the Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, published notice in the **Federal Register** stating that the Government of Sudan had sustained the positive actions that gave rise to E.O. 13761. That notice also stated that the Secretary of State had provided to the President the report described in section 10 of E.O. 13761, fulfilling the requirement set forth in E.O. 13761, as amended by E.O. 13804, that make effective the revocation of certain economic sanctions related to Sudan. As such, effective October 12, 2017, pursuant to E.O. 13761, as amended by E.O. 13804, sections 1 and 2 of E.O. 13067 were revoked and E.O. 13412 was revoked in its entirety. As a result of the revocation of these sanctions provisions, U.S. persons are no longer prohibited from engaging in transactions that were previously prohibited solely under the SSR. Consistent with the revocation of these sanctions provisions, OFAC is removing the SSR from the Code of Federal Regulations.

The emergency declared by the President with respect to Sudan in E.O. 13067, and expanded in E.O. 13400, has not been terminated. These authorities remain the basis for the DSR, which remain in effect with respect to Darfur and continues to block the property and interests in property of certain persons connected with the conflict in Darfur.

Pursuant to section 1 of E.O. 13761, as amended by E.O. 13804, the revocation of sections 1 and 2 of E.O. 13067 and the entirety of E.O. 13412 shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under those orders during the period that those provisions were in effect.

Authorization for Certain Exports of Agricultural Commodities, Medicine, and Medical Devices

Pursuant to Section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, 22 U.S.C. 7205 (TSRA), an OFAC license is still required for certain exports and reexports to Sudan of agricultural commodities, medicine, and medical devices as a result of Sudan's inclusion on the State Sponsors of Terrorism List. Effective October 12, 2017, OFAC issued and made available on its website General License A. This general license authorized exports and reexports of these items to Sudan. Today, OFAC is incorporating General License A into the Terrorism List Government Sanctions Regulations, 31 CFR part 596, as new § 596.506. No OFAC license is required for financing of these exports and reexports.

U.S. persons and non-U.S. persons will still need to obtain any licenses required by the Department of Commerce's Bureau of Industry and Security (BIS) to export or reexport to Sudan certain items (commodities, software, and technology) that are on the Commerce Control List (CCL), Supp. No. 1 to part 774 of the Export Administration Regulations, 15 CFR parts 730 through 774 (EAR). In limited circumstances, U.S. persons and non-U.S. persons may also need to obtain licenses from BIS to export or reexport to Sudan items that are subject to the EAR but not specifically listed on the CCL (''EAR99'' items) if such transactions implicate certain end-use or end-user concerns (see 15 CFR part 744).

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects

31 CFR Part 538

Administrative practice and procedure, Banks, Banking, Blocking of assets, Sudan, Credit, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Securities, Services.

31 CFR Part 596

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Terrorism.

For the reasons set forth in the preamble, and under the authority of 3 U.S.C. 301; 50 U.S.C. 1601–1651; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244; E.O. 13761, 82 FR 5331, as amended by E.O. 13804, 82 FR 23611, OFAC amends 31 CFR parts 538 and 596 as follows:

PART 538—[REMOVED]

■ 1. Remove part 538.

PART 596—TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

■ 2. The authority citation for part 596 is revised to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b).

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

■ 3. Add § 596.506 to read as follows:

§ 596.506 Authorizing Certain Transactions Pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(a) Effective October 12, 2017, pursuant to section 906(a)(l) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205) (TSRA), all exports and reexports of agricultural commodities, medicine, or medical devices to the Government of Sudan or to any entity in Sudan or to any person in a third country purchasing specifically for resale to any of the foregoing are authorized, provided that the exports and reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

(b) Consistent with section 906(a)(l) of TSRA, each year the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

Note 1 to § 596.506: This authorization does not eliminate the need to comply with other provisions of 31 CFR chapter V, including 31 CFR part 596, or other applicable provisions of law, including any requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the Export Administration Regulations (15 CFR parts 730 through 774) administered by the Bureau of Industry and

Security of the Department of Commerce and the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2018–14084 Filed 6–28–18; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 583

Global Magnitsky Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement the Global Magnitsky Human Rights Accountability Act and Executive Order 13818 of December 20, 2017 (''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption''). OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.

DATES: *Effective Date:* June 29, 2018.

FOR FURTHER INFORMATION CONTACT: OFAC: 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

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

On December 23, 2016, the President signed the Global Magnitsky Human Rights Accountability Act (Pub. L. 114–328, Title XII, Subtitle F) (the ''Act'') into law. The Act authorized the President to impose targeted sanctions on any foreign person the President determines is, among other things, responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights, or a government official, or a senior associate of such an official, responsible for, or complicit in, ordering, controlling, or otherwise directing, acts of significant corruption.

On December 20, 2017, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order 13818 (82 FR 60839, December 26, 2017) (E.O. 13818), effective at 12:01 a.m. eastern standard time on December 21, 2017.

In E.O. 13818, the President determined that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and declared a national emergency to deal with that threat.

OFAC is issuing the Global Magnitsky Sanctions Regulations, 31 CFR part 583 (the ''Regulations''), to implement the Act and E.O. 13818, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13818. A copy of E.O. 13818 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 583 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 583

Administrative practice and procedure, Banks, Banking, Blocking of assets, Global Magnitsky, Penalties, Reporting and recordkeeping requirements, Sanctions.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 583 to 31 CFR chapter V to read as follows:

PART 583—GLOBAL MAGNITSKY SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–328, Title XII, Subtitle F, 130 Stat. 2533 (22 U.S.C. 2656 note); E.O. 13818, 82 FR 60839, December 26, 2017.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 583.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note 1 to § 583.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.

Subpart B—Prohibitions

§ 583.201 Prohibited transactions involving blocked property.

All transactions prohibited pursuant to Executive Order 13818 of December 20, 2017 are also prohibited pursuant to this part.

Note 1 to § 583.201: The names of persons listed in or designated pursuant to Executive Order 13818, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[GLOMAG].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. See § 583.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 583.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–GLOMAG]''.

Note 3 to § 583.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 583.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 583.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interests in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interests in property blocked pursuant to § 583.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third

party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property and interests in property blocked pursuant to § 583.201.

§ 583.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 583.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 583.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 583.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 583.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 583.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 583.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 583.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 583.205 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any information or informational materials, as defined in § 583.306, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730 through 774, or to the exportation of goods (including software) or technology for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 583.201 are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 583.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 583.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 583.201 held in the name of a person whose property and interests in property are blocked pursuant to § 583.201, or in which such person has an interest, and with respect to which payments, transfers,

exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 583.301: See § 583.406 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 583.201.

§ 583.302 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(1) With respect to a person listed in the Annex to Executive Order 13818 of December 20, 2017, 12:01 a.m. eastern standard time on December 21, 2017; and

(2) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 583.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

§ 583.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 583.304 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in Executive Order 13818 of December 20, 2017, means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 583.305 Foreign person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

§ 583.306 Information or informational materials.

(a)(1) The term *information or informational materials* includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD–ROMs, artworks, and news wire feeds.

(2) To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 583.307 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 583.308 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

Note 1 to § 583.308: See § 501.801 of this chapter on licensing procedures.

§ 583.309 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 583.310 Person.

The term *person* means an individual or entity.

§ 583.311 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 583.312 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by

reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 583.313 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 583.314 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 583.315 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 583.401 [Reserved]

§ 583.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 583.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 583.201, such property shall no longer be deemed to be property blocked pursuant to § 583.201, unless there exists in the property another interest that is blocked pursuant to § 583.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 583.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 583.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 583.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 583.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 583.201 if effected after the effective date.

§ 583.406 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 583.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 583.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 583.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Global Magnitsky sanctions page on OFAC's website: *www.treasury.gov/ofac*.

§ 583.502 [Reserved]

§ 583.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 583.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 583.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 583.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 583.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 583.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 583.506 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 583.201 or any further Executive orders relating to the national emergency declared in Executive Order 13818 of December 20, 2017, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 583.507, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 583.201 or any further Executive orders relating to the national emergency declared in Executive Order 13818 of December 20, 2017, not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this section. Additionally, U.S. persons who provide services authorized by this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. See § 583.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 583.201 or any further Executive orders relating to the national emergency declared in Executive Order 13818 of December 20, 2017 is prohibited unless licensed pursuant to this part.

Note 1 to § 583.506: Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available on OFAC's website at: *www.treasury.gov/ofac.*

§ 583.507 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 583.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 583.201 or any further Executive orders relating to the national emergency declared in Executive Order 13818 of December 20, 2017 is authorized from funds originating outside the United States, provided that the funds do not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 583.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

Note 1 to paragraph (a): Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 583.201, any other part of this chapter, or any Executive order has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) Email (preferred method): *OFAC.Regulations.Reports@treasury.gov;* or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 583.508 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part or any further Executive orders relating to the national emergency declared in Executive Order 13818 of December 20, 2017 are authorized.

Subpart F—Reports

§ 583.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 583.701 Penalties and Findings of Violation.

(a) The penalties available under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), as adjusted annually pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note) or, in the case of criminal violations, as adjusted pursuant to 18 U.S.C. 3571, are applicable to violations of the provisions of this part.

(b) OFAC has the authority, pursuant to IEEPA, to issue Pre-Penalty Notices, Penalty Notices, and Findings of Violation; impose monetary penalties; engage in settlement discussions and enter into settlements; refer matters to the United States Department of Justice for administrative collection; and, in appropriate circumstances, refer matters to appropriate law enforcement agencies for criminal investigation and/or prosecution. For more information, see appendix A to part 501 of this chapter, which provides a general framework for the enforcement of all economic sanctions programs administered by OFAC, including enforcement-related definitions, types of responses to apparent violations, general factors affecting administrative actions, civil penalties for failure to comply with a requirement to furnish information or keep records, and other general civil penalties information.

Subpart H—Procedures

§ 583.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 583.802 Delegation of certain authorities by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13818 of December 20, 2017 and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 583.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 583—Executive Order 13818

Executive Order 13818 of December 20, 2017

Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Global Magnitsky Human Rights Accountability Act (Public Law 114–328) (the ''Act''), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)) (INA), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that the prevalence and severity of human rights abuse and corruption that have their source, in whole or in substantial part, outside the United States, such as those committed or directed by persons listed in the Annex to this order, have reached such scope and gravity that they threaten the stability of international political and economic systems. Human rights abuse and corruption undermine the values that form an essential foundation of stable, secure, and functioning societies; have devastating impacts on individuals; weaken democratic institutions; degrade the rule of law; perpetuate violent conflicts; facilitate the activities of dangerous persons; and undermine economic markets. The United States seeks to impose tangible and significant consequences on those who commit serious human rights abuse or engage in corruption, as well as to protect the financial system of the United States from abuse by these same persons.

I therefore determine that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby determine and order:

SECTION 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) The persons listed in the Annex to this order;

(ii) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(A) To be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse;

(B) to be a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in:

(1) Corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or

(2) the transfer or the facilitation of the transfer of the proceeds of corruption;

(C) to be or have been a leader or official of:

(1) An entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section relating to the leader's or official's tenure; or

(2) an entity whose property and interests in property are blocked pursuant to this order as a result of activities related to the leader's or official's tenure; or

(D) to have attempted to engage in any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section; and

(iii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(A) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) Any activity described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section that is conducted by a foreign person;

(2) any person whose property and interests in property are blocked pursuant to this order; or

(3) any entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section, where the activity is conducted by a foreign person;

(B) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or

(C) to have attempted to engage in any of the activities described in subsections (iii)(A) or (B) of this section.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the effective date of this order.

SEC. 2. The unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1 of this order would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

SEC. 3. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

SEC. 4. The prohibitions in section 1 include:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

SEC. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

SEC. 6. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

SEC. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

SEC. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA and the Act as may be necessary to implement this order and section 1263(a) of the Act with respect to the determinations provided for therein. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions to other officers and agencies of the United States. All agencies shall take all appropriate measures within their authority to implement this order.

SEC. 9. The Secretary of State is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA, the INA, and the Act as may be necessary to carry out section 2 of this order and, in consultation with the Secretary of the Treasury, the reporting requirement in section 1264(a) of the Act with respect to the reports provided for in section 1264(b)(2) of that Act. The Secretary of State may, consistent with applicable law, redelegate any of these functions to other officers and agencies of the United States consistent with applicable law.

SEC. 10. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

SEC. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

SEC. 12. This order is effective at 12:01 a.m., Eastern Standard Time, December 21, 2017.

SEC. 13. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Donald J. Trump

THE WHITE HOUSE,

December 20, 2017.

Annex

1. Mukhtar Hamid Shah; Date of Birth (DOB) August 11, 1939; alt. DOB November 8, 1939; nationality, Pakistan
2. Angel Rondon Rijo; DOB July 16, 1950; nationality, Dominican Republic
3. Dan Gertler; DOB December 23, 1973; nationality, Israel; alt. nationality, Democratic Republic of the Congo
4. Maung Maung Soe; DOB March 1964; nationality, Burma
5. Yahya Jammeh; DOB May 25, 1965; nationality, The Gambia
6. Sergey Kusiuk; DOB December 1, 1966; nationality, Ukraine; alt. nationality, Russia
7. Benjamin Bol Mel; DOB January 3, 1978; alt. DOB December 24, 1978; nationality, South Sudan; alt. nationality, Sudan
8. Julio Antonio Juarez Ramirez; DOB December 1, 1980; nationality, Guatemala
9. Goulnora Islamovna Karimova; DOB July 8, 1972; nationality, Uzbekistan
10. Slobodan Tesic; DOB December 21, 1958; nationality, Serbia
11. Artem Yuryevich Chayka; DOB September 25, 1975; nationality, Russia
12. Gao Yan; DOB April 1963; nationality, China
13. Roberto Jose Rivas Reyes; DOB July 6, 1954; nationality, Nicaragua

Dated: June 26, 2018.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

Approved:

Dated: June 26, 2018.

Sigal P. Mandelker,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2018–14060 Filed 6–28–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0340]

RIN 1625–AA08

Special Local Regulation; Corpus Christi Bay, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain navigable waters of Corpus Christi Bay. This action is necessary to protect marine event participants, spectators and transiting vessels on these navigable waters during the Youth World's Championship regatta held at the Corpus Christi Yacht Club. Entry of vessels or persons into this regulated area is prohibited unless authorized by the Captain of the Port Sector Corpus Christi or designated representative.

DATES: This rule is effective from 6:15 a.m. on July 14, 2018 through 3 p.m. on July 21, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–

0340 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Kevin Kyles, Waterways Management Division, U.S. Coast Guard; telephone 361–939–5125, email *Kevin.L.Kyles@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. This regulated area must be established by July 14, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the special local regulation until after the scheduled date of the regatta and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is necessary to ensure the safety of persons and vessels during the regatta.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the vessel traffic occurring on July 14, 2018 through July 21, 2018 will be a safety concern for participants within the boating course. Potential hazards include risk of injury or death resulting from near or actual contact among participant vessels and spectator vessels or waterway users if normal vessel traffic were to interfere with the event. The purpose of this rule is to ensure safety of participants, spectators, and transiting vessels in the regulated area before, during, and after the Youth World's Championship regatta.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 6:15 a.m. through 3 p.m. each day from July 14, 2018 through July 21, 2018 in Corpus Christi Bay, approximately 3,000 feet east of People's Street T-Head in Corpus Christi, TX. The regatta will be inside a rectangular area with the most northwestern point located at 027°47′31″ N, 097°22′33.05″ W, most northeastern point located at 027°47′29.46″ N, 097°19′44.26″ W, most southeastern point located at 027°46′12.06″ N, 097°19′44.78″ W, and the most southwestern located at 027°46′09.55″ N, 097°22′28.78″ W. The duration of the special local regulation is intended to protect the public from potential navigation hazards before, during, and after the event. No vessel or person is permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. A designated representative may be a Patrol Commander (PATCOM). The PATCOM will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The PATCOM may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the COTP to patrol the regulated area.

Spectator vessels desiring to enter, transit through or within, or exit the regulated area may do so only with permission from the COTP or a designated representative, and when permitted, must operate at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels. No spectator vessel shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel. Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel.

The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative can terminate enforcement of the special local regulations at the conclusion of the event.

The COTP or a designated representative would inform the public of the enforcement times for this regulated area through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on size, location, duration, and time-of-day for the special local regulation. Vessel traffic will be able to safely navigate around the regulated area, which will impact only a small portion of the Laguna Madre for 3 hours and 15 minutes on one day. Moreover, the Coast Guard will issue Broadcast Notices to Mariners (BNMs) via VHF–FM marine channel 16 about the

regulation so that waterway users may plan accordingly for transits during this restriction, and the rule allows vessels to seek permission from the COTP or a designated representative to enter the regulated area.

B. Impact on Small Entities

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

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is a special local regulation that limits daily access to certain navigable waters of Corpus Christi Bay over eight days. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Add § 100.35T08–0340 to read as follows:

§ 100.35T08–0340 Special Local Regulation; Corpus Christi Bay, Corpus Christi, TX.

(a) *Location.* The following area is a special local regulation: all navigable waters inside approximate rectangular area from with the most northwestern point located at 027°47′31″ N, 097°22′33.05″ W, the most northeastern point being located at 027°47′29.46″ N, 097°19′44.26″ W, the most southeastern point located at 027°46′12.06″ N, 097°19′44.78″ W, and the most southwestern located at 027°46′09.55″ N, 097°22′28.78″ W, in Corpus Christi Bay, approximately 3,000 feet east of People's Street T-Head in Corpus Christi, TX.

(b) *Effective period.* This section is effective from 6:15 a.m. on July 14, 2018 through 3 p.m. on July 21, 2018.

(c) *Enforcement period.* This section will be enforced from 6:15 a.m. through 3 p.m. during each day of the effective period.

(d) *Regulations.* (1) In accordance with the general regulations in § 100.35, entry into this regulated area is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated

representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the COTP or a designated representative to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the COTP or a designated representative and when so directed by that officer will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

(4) No spectator vessel shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) Spectator vessels may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel.

(6) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(7) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: June 25, 2018.

E.J. Gaynor,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2018–14021 Filed 6–28–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0607]

Safety Zones; Recurring Events in Captain of the Port Duluth Zone—LaPointe Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the LaPointe Fireworks in LaPointe, WI from 9:30 p.m. through 11:30 p.m. on July 4, 2018, with a rain date of 9:30 p.m. through 11:30 p.m. on July 5, 2018. This action is necessary to protect participants and spectators during the LaPointe Fireworks. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or designated on-scene representative.

DATES: The regulations in 33 CFR 165.943(b) will be enforced from 9:30 p.m. through 11:30 p.m. on July 4, 2018, with a rain date of 9:30 p.m. through 11:30 p.m. on July 5, 2018, for the LaPointe Fireworks safety zone, § 165.943(a)(5).

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT John Mack, Chief of Waterways Management, Coast Guard; telephone (218)725–3818, email *DuluthWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual LaPointe Fireworks in 33 CFR 165.943(a)(5) from 9:30 p.m. through 11:30 p.m. on July 4, 2018, with a rain date of 9:30 p.m. through 11:30 p.m. on July 5, 2018, on all waters of Lake Superior bounded by the arc of a circle with a 350-foot radius from the fireworks launch site with its center in position 46°46′40″ N, 090°47′22″ W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or their designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16.

This document is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners.

Dated: June 18, 2018.

E.E. Williams,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2018–14012 Filed 6–28–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0239]

RIN 1625–AA00

Safety Zone; Tennessee River, Gilbertsville, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Tennessee River. This action is necessary to provide for the safety of life on these navigable waters near the Kentucky Dam Marina, Gilbertsville, KY, during a fireworks display. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 6:50 p.m. through 10:10 p.m. on June 30, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0239 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST3 Joseph Stranc, Marine Safety Unit Paducah Waterways Division, U.S. Coast Guard; telephone 270–442–1621 ext. 2124, email *Joseph.B.Stranc@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

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

II. Background Information and Regulatory History

On January 17, 2018, the Kentucky Dam Marina notified the Coast Guard that it would be conducting a fireworks display from 7 p.m. through 10 p.m. on June 30, 2018. The fireworks are to be launched from the break wall of Kentucky Dam Marina. In response, on April 26, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Tennessee River, Gilbertsville, KY (83 FR 18241). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended May 29, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with this fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this June 30, 2018 display will be a safety concern for anyone within a 350-foot radius from the fireworks launch site on the Kentucky Dam Marina break wall in Gilbertsville, KY. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 26, 2018. However, we have noticed an error in the title of the proposed rule, which included ''Ohio'' River, instead of ''Tennessee'' River. The regulatory text of this rule corrects an error in the title of the regulatory text of this temporary final rule.

This rule establishes a temporary safety zone from 6:50 p.m. through 10:10 p.m. on June 30, 2018. The safety zone will cover all navigable waters within a 350-foot radius from the fireworks launch site on the Kentucky Dam Marina break wall in Gilbertsville, KY. The duration of the zone is intended to ensure the safety of vessels on these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by phone at 1–800–253–7465. If permission is granted, all persons and vessels must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNMs) of the enforcement period for the safety zone as well as the date and time of enforcement.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone, which will impact a 350-foot designated area of the Tennessee River for approximately three hours on one evening. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners (BNMs) via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately three hours that will prohibit entry within 350 feet of a break wall at Kentucky Dam Marina in Gilbertsville, KY. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0239 to read as follows:

§ 165.T08–0239 Safety Zone; Tennessee River, Gilbertsville, KY.

(a) *Location.* The following area is a safety zone: All navigable waters of the Tennessee River at mile marker (MM) 23 within a 350-foot radius from the fireworks launch site on the Kentucky Dam Marina break wall in Gilbertsville, KY.

(b) *Effective date.* This section is effective from 6:50 p.m. through 10:10 p.m. on June 30, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by phone at 1–800–253–7465.

(3) If permission is granted, all persons and vessels must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNMs) of the enforcement period for the safety zone as well as the date and time of enforcement.

Dated: June 19, 2018.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2018–14020 Filed 6–28–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0435; FRL–9979–15—Region 6]

Approval and Promulgation of Implementation Plans; Arkansas; Revisions to Minor New Source Review Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Arkansas State Implementation Plan (SIP) minor New Source Review (NSR) program submitted on July 26, 2010, and March 24, 2017, including supplemental information provided on November 30, 2015, May 26, 2016, July 5, 2017, July 27, 2017, and March 16, 2018. Specifically, we are proposing to approve revisions that revise the minor NSR permitting thresholds and *de minimis* levels, as well as, additional non-substantive revisions contained in those submittals. This final action is consistent with the requirements of section 110 of the CAA.

DATES: This rule is effective on July 30, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2017–0435. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* 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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ashley Mohr, 214–665–7289, *mohr.ashley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The background for this action is discussed in detail in our September 18, 2017 proposal (82 FR 43506). In that document we proposed to approve revisions to the Arkansas SIP submitted on July 26, 2010, and March 24, 2017, including supplemental information submitted on November 30, 2015, May 26, 2016, July 5, 2017, July 27, 2017, and March 16, 2018. The revisions addressed in our proposal included revisions to the Arkansas minor NSR permitting thresholds and *de minimis* levels, as well as, additional revisions to the minor NSR provisions that are considered to be non-substantive.

We received one set of comments on the proposal. The full text of the comment letter received during the public comment period, which closed on October 18, 2017, is included in the publicly posted docket associated with this action at *www.regulations.gov.* Below the EPA provides a summary of the comments received and corresponding responses.

II. Response to Comments

Comment: The commenter stated that the revised minor NSR rule fails to provide legally enforceable procedures to ensure new sources that could interfere with NAAQS attainment or maintenance or violate the control strategy won't be allowed to construct. More specifically, they stated that the minor NSR program does not explain how ''actual emissions'' are to be determined for a new source with no operational history. To the extent that Arkansas Department of Environmental Quality (ADEQ) determined applicability for new sources based on projected actual emissions, then the rule could ultimately allow sources with emissions greater than the permitting thresholds to construct without a permit and without evaluation of air quality impacts by a new source underestimating emission factors and/or operating parameters and exceeding those projected emissions after its construction. Therefore, the commenter stated it is unclear what size of sources could ultimately end up exempt from Arkansas' minor NSR program. The commenter claims that because of the noted deficiencies there is a problem with any attempt to determine whether the revised minor NSR rule's applicability thresholds are set to the appropriate level to ensure the state meets the applicable federal requirements found in CAA section 110(a)(2)(C) and 40 CFR 51.160(b).

Response: This comment is not relevant to our current rulemaking. As shown in Section IV of the Technical Support Document that accompanied our proposed approval action, our rulemaking only addresses revisions to the permitting thresholds values contained in Reg. 19.401. The applicability determination for the minor NSR program and its reliance on ''actual emissions'' was not revised by Arkansas as part of the July 26, 2010, or May 24, 2017 SIP revision submittals. Therefore, the applicability determination as originally SIP-approved October 16, 2000 (65 FR 61103) remains unchanged, is not a part of this rulemaking, and any comment on it is not relevant to the current rulemaking.

While the comments regarding the applicability determination basis are not relevant to this rulemaking, we will respond to the commenter's assertion that any attempt to determine if the revised minor NSR permitting thresholds meet the referenced federal requirements is problematic. We do not agree with this statement. As outlined in our proposed rulemaking, we evaluated several analyses submitted by Arkansas in support of the revised thresholds, including an emissions inventory analysis, a monitoring trends analysis, and a modeling analysis. Based on our evaluation of those analyses along with the SIP revisions submittals documentation (found in the Technical Support Document (TSD)), we find that the proposed thresholds will meet applicable federal requirements and not interfere with NAAQS attainment or maintenance or violate the control strategy. As required by Reg. 19.401, a source with actual emissions greater than the applicability thresholds would be required to obtain a permit and is subject to enforcement action if the source fails to do so. The emissions from a new source to be compared with the permitting thresholds would be based on controlled emission factors and projected operations (hours of operation and/or amounts of material processed). This approach allows permitting applicability to be based on emissions that are close to actual emissions. The regulation specifically does not allow construction and operation of sources with actual emissions in excess of the thresholds, and any source that did underestimate their emissions and exceed the emissions thresholds would be in violation of the regulations and beyond the scope of the analyses conducted to demonstrate the regulation's compliance with applicable federal requirements for minor NSR programs.

Comment: The commenter stated that the rule exempting *de minimis* changes at existing sources from permitting fails to provide legally enforceable procedures to ensure that modified sources that could interfere with NAAQS attainment or maintenance or violate the control strategy won't be allowed to construct. More specifically, they stated a physical change or change in the method of operation at a source with no existing permit has no existing ''permitted rates'' to compare ''proposed permitted rates'' to, and the rule does not explain how applicability is determined in such cases and the rule does not clearly say that it applies only to sources with existing permits. In addition, the commenter stated that Reg. 19 does not clearly require a permit application for *de minimis* changes. Therefore, they claim that *de minimis* exemptions rule does not meet the requirements of 40 CFR 51.160(a) of providing legally enforceable procedures.

Response: We do not agree that the applicability of the de minimis changes rule to existing sources with no permits is unclear. The *de minimis* change provisions are found in paragraph C of Reg. 19.407 of Arkansas' ''Minor Source Review'' regulation (Reg. 19, Chapter 4). Reg. 19.407 is titled ''Permit Amendments'' and as stated in our original 2000 approval of Reg. 19.407 (65 FR 26795; finalized at 65 FR 61103), this section describes the procedures for amending a permit. Because Reg. 19.407 describes permit amendments, including *de minimis* changes, these provisions are not applicable to a source that does not have a permit. Existing sources with no existing permit would be subject to the minor NSR permitting thresholds found in Reg. 19.401 under the ''General Applicability'' section to determine if the source was subject to minor NSR permitting requirements. In addition to the clarity provided in the rule itself, the current ''Air Application Instructions for Registrations, Minor Source Permits, or Title V Permits'' made available on ADEQ's air permitting website also indicates that *de minimis* applications are for ''small modifications to a permit.'' (Pg. 5) [1] Page 12 of the application instructions reiterates the applicability of the *de*

[1] Air Application Instructions available online at: *https://www.adeq.state.ar.us/downloads/WebDatabases/Air/PermitData/Forms%20and%20Instructions/Form%20and%20Instructions/Air_Permit_Application_Forms_Instructions.pdf.*

minimis rule and states that a *de minimis* application ''applies to facilities having a current air permits [sic].'' Much like the *de minimis* change provisions in the rule, it is clear based on ADEQ's current air permit application guidance that the *de minimis* change rule only applies to existing permitted facilities and not new facilities.

The portion of the comment raised regarding permit application requirements for *de minimis* changes is not relevant to our current rulemaking. As shown in Section IV of the Technical Support Document that accompanied our proposed action, our rulemaking only addresses revisions related to *de minimis* changes that are found in Reg. 19.407(C)(2)(a) and (b). Permit application requirements, which are found in Reg. 19.404, are currently SIP-approved and were not revised as part of the July 26, 2010, or May 24, 2017 SIP revision submittals under review in this rulemaking. Similarly, Reg. 19.407(C)(7) was not revised in the 2010 or 2017 SIP revision submittals. Therefore, the SIP-approved Reg. 19.404 and Reg. 19.407(C)(7) provisions as most-recently approved on October 16, 2000 (65 FR 61103) and April 12, 2007 (72 FR 18394), respectively, remain unchanged and are not part of this rulemaking and any comment on those provisions is not relevant.

Comment: The commenter claims that Arkansas has failed to adequately justify the basis for its revised emission thresholds for exempting new sources and *de minimis* changes from its minor NSR program. They state that 40 CFR 51.160(e) requires states to identify the types and sizes of sources subject to its minor NSR program and to explain the basis for determining which facilities are subject to review. ADEQ's justification for the emission thresholds adopted in its minor NSR program for Reg. 19, Chapter 4, was essentially that these tons per year thresholds were the same thresholds identified as ''*de minimis*'' under major NSR permitting programs. However, there has been no analysis with current modeling techniques that the major NSR significance levels are adequate to ensure a modified source won't interfere with the attainment or maintenance of all of the various current NAAQS, which differ in stringency from the NAAQS applicable at the time the PSD significant emission rates were developed. The commenter also stated that the AERMOD (dispersion) modeling results, which they believe underestimate actual impacts, indicate that the pollutant concentrations resulting from the emissions exempt from permitting based on the revised thresholds are significantly higher than 4% of the NAAQS, which was a threshold for the EPA's analyses from 1980, 1987, and 2008 for demonstrating that the significant emission levels were *de minimis* to the PSD program.

Response: We do not agree with this comment. Although ADEQ did include the data referenced by the commenter in their initial 2010 SIP revision submittal, the basis for ADEQ's findings regarding the appropriateness of the revised thresholds was different and they also provided additional analyses to demonstrate the scope of the exempt sources and modifications resulting from the revised minor NSR permitting thresholds and *de minimis* change levels and to demonstrate that the revised thresholds will not interfere with attainment or maintenance of the NAAQS. These analyses were included in their entirety in the March 24, 2017 SIP revision submittal and included: (1) An emissions inventory analysis that determined the percentage of the total statewide emissions that were to be exempt under the revised minor NSR permitting thresholds and *de minimis* change levels; (2) a monitoring trends analysis that included a review of the current status of ambient air quality, as well as, the impacts of the revised thresholds on ambient concentration monitoring trends in the state of Arkansas; and (3) a modeling analysis that included photochemical and dispersion modeling analyses that evaluated the impacts of the revised thresholds through model predicted results. The air quality modeling analysis report included in Appendix D of the March 24, 2017 SIP submittal describes the modeling approach used by ADEQ as part of the demonstration showing that the revised minor NSR permitting thresholds and *de minimis* change levels will not adversely impact the current NAAQS. Based on our review of the modeling analysis, which did use current air quality modeling techniques, and the other analyses completed by ADEQ, we found that the impacts resulting from the revised minor NSR permitting thresholds and *de minimis* levels would not interfere with the state's ability to maintain compliance with the NAAQS.

As discussed in the Technical Support Document accompanying our proposed action, ADEQ conducted both regional scale photochemical modeling using CMAQ and local-scale dispersion modeling using AERMOD to examine the predicted impacts from sources or *de minimis* changes that would be exempt from minor NSR permitting based on the revised thresholds.[2] ADEQ employed this combined modeling approach in an effort to look at both regional and local scale impacts from emissions equal to the revised thresholds for VOC, NO_X, SO_2, CO, PM_{10}, and $PM_{2.5}$. In both the regional- and local-scale modeling analyses, ADEQ modeled hypothetical sources with emissions equal to the minor NSR permitting and *de minimis* change thresholds and stack parameters set equal to median values based on the 2011 National Emissions Inventory (NEI) for Arkansas sources. As part of photochemical modeling, the maximum CMAQ-derived impacts on daily maximum 8-hour ozone, 24-hour $PM_{2.5}$, annual average $PM_{2.5}$, 1-hour NO_2, 1-hour SO_2, and 24-hour PM_{10} were calculated. The statewide maximum impacts for each day resulting from the hypothetical sources was added to the unmodified future year concentration for each day and grid cell. The resulting concentrations represented the worst-case ambient concentrations including impacts from the threshold emission increases at any location in Arkansas. These worst-case ambient concentrations were then used to calculate relative response factors (RRFs) to estimate future design values (FDVs) at both monitored and unmonitored locations throughout Arkansas.[3] [4] The FDVs were compared with FDVs without the thresholds increase impacts, as well as, the NAAQS in an effort to determine whether emissions increases less than the minor NSR thresholds would cause or

[2] See Pages 31–32 of the EPA's Technical Support Document dated August 24, 2017, which discusses the air quality modeling analyses that were completed by ADEQ in support of the submitted SIP revisions. In addition to the TSD, additional details regarding the modeling analyses are located in the modeling report submitted as part of the March 24, 2017 SIP revisions submittal, which outlines modeling tools and techniques utilized by Arkansas along with the results from the modeling analyses. (ADEQ's modeling report located in the ''ADEQ 2010 Minor NSR Permitting Thresholds and *De Minimis* Levels SIP Revision—Technical Support Document'' dated November 2015,)

[3] A RRF is the ratio of future case modeled concentrations to base case modeled concentrations, which is used to quantify the relative impacts of the emissions added to the model. In the photochemical modeling conducted by ADEQ, the base case modeled concentrations are taken from the 2015 modeling without the hypothetical sources added while the future case modeling results are taken from the 2015 modeling plus the 8 modeled hypothetical sources. Therefore, the RRFs calculated in this modeling analysis quantify the relative impacts from the additional emissions from the hypothetical sources that would be exempt from permitting based on the new thresholds/*de minimis* levels.

[4] RRFs can be used to estimate FDVs, which are determined by applying the RRF ratios to monitored design values from the base year taken from ambient monitoring data.

contribute to NAAQS violations or potentially interfere with NAAQS maintenance. Similar to the regional-scale photochemical modeling, the hypothetical sources modeling in the near-field dispersion modeling analysis were modeled with emission rates equal to the minor NSR permitting thresholds and *de minimis* levels and stack parameters were set equal to median stack parameter based on the 2011 NEI data. The maximum AERMOD-derived impacts on daily maximum 1-hr NO_2, annual average NO_2, daily maximum 1-hour SO_2, daily maximum 1-hour CO, daily maximum 8-hour average CO, and 24-hour average PM_{10} were calculated for each air quality control region. The daily AERMOD-derived concentrations were added to the CMAQ-derived concentrations for the same location, using the CMAQ values as ''background.'' ADEQ stated that the values determined for the statewide daily maximum impacts are expected to represent the near-field concentrations assuming worst-case impacts from threshold emission increases at a range of locations through Arkansas. The daily maximum worst case AERMOD impacts were added to the unmodified future year concentration for each day and grid cell. The resulting concentrations represented the worst-case ambient concentrations including impacts from the threshold emission increases at any location in Arkansas. Similar to the CMAQ-only modeling analysis, the worse-case modeled impacts were used to calculate RRFs and FDVs. The calculated FDVs were compared with the original unmodified FDVs and the NAAQS in order to examine the potential impacts of the proposed minor NSR threshold emissions on NAAQS attainment and maintenance. The modeling conducted by Arkansas utilized current air quality modeling techniques to demonstrate that the predicted impacts resulting from emissions at or below the revised minor NSR permitting thresholds and *de minimis* change levels, which happen to be equal in magnitude to the major NSR significance levels, will not interfere with the attainment or maintenance of the NAAQS current in effect at the time of the analysis—including those that were not applicable at the time the PSD significant emission rates were developed.

Further, the entirety of the additional analyses provided by ADEQ in the March 24, 2017 SIP revision submittal, including the NAAQS non-interference modeling demonstration, was the basis of the EPA's finding that the revised thresholds were approvable. As such, a linkage to the PSD significant emission rate values and/or comparison of modeled impacts to percentage thresholds relied upon during the EPA's development of the significant emission rates in 1980, 1987, and 2008 for the PSD program was not applicable to our proposed approval of the revised minor NSR permitting thresholds and *de minimis* levels. Elsewhere in this final rulemaking, we have addressed the comments specifically made regarding the modeling techniques used by Arkansas and restated our finding that those techniques were reasonable and appropriate for the NAAQS non-interference demonstration required by CAA section 110(l).

Comment: The commenter stated that modified major sources exempted from major source permitting under the PSD program will also be exempt from minor source permitting under Arkansas' *de minimis* changes rule and that the revised minor NSR program will not pick up the slack and ensure protection of the NAAQS as was intended when EPA promulgated the 2002 revisions to the major source NSR rules.

Response: The commenter is incorrect that modifications to existing PSD major sources, which are exempt from PSD permitting, would be exempt from minor source permitting under the *de minimis* change rule. As discussed below, any change at an existing major NSR source (PSD source) is prohibited from using the *de minimis* change process because the *de minimis* change rule at Reg. 19.407(C) is located in Chapter 4 of Reg. 19, which does not apply to PSD sources or any modifications at those sources.

The SIP-approved Arkansas NSR program is comprised of two types of review: ''Minor Source Review'' and ''Major Source Review''. Arkansas operates a so-called ''merged, one permit'' system, which is divided into these two types of review based on whether a source is required to obtain a title V operating permit. As such, ''Minor Source Review'', which is contained in Reg. 19, Chapter 4, applies only to those sources that are not subject to title V permitting and require only a title I NSR authorization.[5] All sources that are subject to title V, which would include PSD sources, are subject to ''Major Source Review'' under Reg. 26 provisions incorporated by reference in Reg. 19, Chapter 11. Therefore, all permitting at PSD sources, including all modifications, would be subject to Reg. 19, Chapter 11 ''Major Source Review'' under the Arkansas NSR permitting program and cannot use the *de minimis* change provisions, which are limited to ''Minor Source Review'' in Chapter 4. Only those non-title V sources that are minor under the SIP-approved definition of minor source may qualify for the *de minimis* change exemption found in Reg. 19.407(C). As discussed in our proposed rulemaking and the accompanying TSD, the emissions inventory analysis for the *de minimis* changes found that the scope of changes expected to qualify for the *de minimis* change exemption is very small with emissions associated with those exempted changes making up a fraction of a percent of statewide emissions. The range of percentage of statewide emissions for the pollutants determined in the emissions inventory analysis for *de minimis* changes was 0.0005% to 0.019%. At these levels it would require over 50 times the NO_X emissions authorized in 2016 to approach 1% of the statewide emissions and over 300 times the emissions for the other pollutants.

The state did not rely solely on the emissions inventory analysis to demonstrate NAAQS compliance. This emissions inventory analysis was coupled with additional analyses specifically looking at ambient concentrations (monitoring trends analysis) and potential ambient impacts (modeling analysis) that were completed by ADEQ as part of the 110(l) demonstration. The results from the modeling analysis indicate that while the addition of the exempt emissions did result in slight increases in the model predicted impacts, it did not violate the NAAQS. As such, the modeling analysis portion of the 110(l) demonstration shows that revised minor NSR program will continue to ensure NAAQS protection.

EPA's intent at the time of promulgation of the 2002 revisions to the major source NSR rules is not relevant here. What is relevant here is the approvability of these revisions in the context of the current regulatory framework as promulgated. The commenter has not cited any ambiguous regulatory language in order to justify an examination of EPA's intent. In the absence of any ambiguity in regulatory language it is not necessary to address EPA's intent here as there is no dispute regarding interpretation on the applicable rules.

[5] As stated in our original SIP approval of Chapter 4, ''[a] minor source is any source which does not meet the requirements of a major source. The Act in section 302(j) defines the terms ''major stationary source'' and ''major emitting facility'' as ''any stationary facility of source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year of more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).''

Comment: The commenter stated that EPA has previously required minor NSR programs to use much smaller emission thresholds than the major modification significant impact levels and gave the example of the Montana minor NSR program includes a *de minimis* increase exemption threshold of 5 TPY, which was approved by EPA, after a 15 TPY threshold that was initially set by Montana was not approved by EPA into the SIP.

Response: In the case of Montana, which was referenced by the commenter, the state did not provide an adequate demonstration to support the approval of the 15 TPY exemption threshold that was initially established by the state into the SIP. The state later revised the threshold to 5 TPY and submitted this threshold for SIP approval along with an analysis to show that the 5 TPY exemption would not interfere with NAAQS attainment or maintenance or violate the control strategy. Based on the revised submittal and supporting information, EPA approved the lower threshold of 5 TPY into the Montana SIP. Our proposed approval of the *de minimis* change levels in Arkansas does not contradict the previous Montana approval. In fact, our proposed approval mirrors the Montana SIP approval in that we requested analyses from Arkansas as part of the 110(l) demonstration for the revised *de minimis* change levels and our approval is based on those analyses as documented in the proposed rulemaking. Specifically, we found that Arkansas' documentation adequately demonstrates that these revised thresholds will not interfere with NAAQS compliance. Our approval of one *de minimis* exemption threshold level in one state does not preclude the approval of a different threshold in another state. Each state's universe of minor NSR sources, meteorology, and ambient air quality conditions are unique and influence the types of exemptions that would not interfere with the minor NSR program's ability to meet the applicable federal requirements.

Comment: The commenter stated that the *de minimis* change rule contradicts with how applicability is determined under PSD permitting requirements and thus fails to ensure projects that should be required to obtain a PSD permit will not be instead considered a *de minimis* change under Reg. 19.407(C). They also state that EPA must disapprove the current submittal and require Arkansas to revise its *de minimis* rule and relevant definitions rule to clearly state that changes that are considered major modifications under the PSD permitting regulations cannot be considered as *de minimis* changes. Without such language clearly stated, the Arkansas minor NSR program could allow sources that would otherwise be subject to PSD permitting to improperly avoid major source PSD permitting requirements for a major modification. The commenter also states that EPA must disapprove the version of Reg. 19.407(C) currently approved into the SIP which EPA has reopened with this action to the extent the provisions could interfere with compliance with the PSD permitting regulations.

Response: We agree with the commenter that changes that are considered major modifications under the PSD permitting regulations cannot be considered as *de minimis* changes. However, the commenter is incorrect that the revisions to the *de minimis* change provisions will interfere with proper implementation of the PSD permitting requirements. As previously stated in our responses, the *de minimis* change rules contained in Chapter 4 of Reg. 19 cannot be used for *any* changes at PSD sources/modifications. Therefore, our proposed approval of revisions to Chapter 4, including the *de minimis* change rule, will not impact PSD permitting implementation. Changes that are considered major would be subject to permitting under Reg. 26 is incorporated by reference in Chapter 11, which utilizes an actual-to-projected actual test for modifications to existing units and an actual-to-potential test for new units, are not exempted from the requirements of Chapter 11 by the provisions we are approving in this rulemaking. As noted in Section IV of the TSD, we are not taking action on any portion of Chapter 11 and the requirements of that chapter, which mainly incorporate by reference the requirements of the federal PSD program at 40 CFR 52.21, remain in effect.

Regarding the commenter's statement that EPA should take action to disapprove Reg. 19.407(C) as it is currently approved into the SIP, aside from the revisions to 407(C)(2)(a) and 407(C)(2)(b) which are clearly annotated in Section IV of the TSD, the other portions of Reg. 19.407 are not being revised by our current rulemaking.[6] Therefore, the other SIP-approved portions of Reg. 19.407 will remain unchanged by our rulemaking. As previously stated in our responses, any comment on provisions that are not being revised as part of our rulemaking is irrelevant to this action. Further, our current rulemaking does not reopen the current SIP-approved and unchanged provisions for any action, including disapproval.

Comment: The commenter stated that because the minor NSR revisions could allow for increased deterioration in air quality over PSD baseline concentration the EPA cannot approve such a SIP revision without a demonstration that it will not cause or contribute to a violation of the applicable PSD increment. The commenter listed the following as chances for increased deterioration resulting from the SIP revision: (1) The minor NSR SIP revisions submitted by ADEQ allow for an increase in allowable emission rates to occur under the *de minimis* provisions of Reg. 19.407(C)(7); (2) Reg. 19.417 allows sources currently holding permits pursuant to Reg. 19 but whose emissions are below the permitting thresholds to submit a registration request under Reg. 18.315, which is a state-only rule and not part of the SIP, and request that their permit containing federally enforceable requirements be terminated; and (3) to the extent ADEQ ensures compliance with the PSD increment as part of its minor NSR program, the relaxation in the sizes of sources and modifications subject to minor NSR permitting also could allow increased deterioration of air quality above baseline concentration. The commenter also stated that the modeling analysis provided by ADEQ to support approval of the minor NSR relaxations included violations of the Class I and Class II PM_{10} increments that were predicted due to the increased emissions thresholds that would exempt from minor NSR review under the proposed SIP revision, which indicates that an unpermitted source pursuant to the expanded exemptions from Arkansas' minor NSR could cause an exceedance of the PM_{10} increment. The commenter also stated that pursuant to CAA section 110(l) and 40 CFR 51.166(a)(2), EPA cannot approve a SIP submittal which admittedly allows a violation of the PSD increments.

Response: We agree with the commenter that the revisions to the Arkansas minor NSR program do allow larger increases in allowable emissions to be authorized via the *de minimis* change rule by increasing the *de minimis* change thresholds. We also agree that the revisions allow currently permitted sources with emissions that fall between the old minor NSR permitting thresholds and the revised permitting thresholds to submit a registration under Reg. 18.315 and request that their Reg. 19 permit be

[6] Reg. 407(C)(2)(a) and (b) contain the *de minimis* change emissions and air quality impacts thresholds.

terminated. However, the applicable legal test for determining approvability of these revisions, which revise the minor NSR program so that it becomes less stringent, is the requirement of CAA section 110(l), EPA cannot approve a revision to the SIP if it interferes with applicable requirements of the Act. The PSD increment requirement found at 40 CFR 51.166(a)(2) is inapplicable here because it is required to be met by a major source/major modification application, not a minor NSR permitting application. The major source/major modification application must show that the PSD increment is not violated and the applicant's modeling must include the emissions from all of the nearby minor sources, as well as any other nearby major sources. If the major source/major modification modeling shows the PSD increment will be violated by the proposed construction/modification, then the major source/major modification must reduce its requested emissions or obtain reductions from the other sources impacting the increment. Because the burden of not violating the PSD increment is placed on the source subject to PSD, the PSD increment requirement does not apply to a minor NSR permitting SIP. As stated previously in our responses to the commenter, the PSD increment requirements are contained in the PSD rules under 40 CFR 51.166 and apply only to sources subject to PSD. They do not apply to minor sources. Therefore, an increment analysis would only be required to be completed as part of a PSD permitting action (Reg. 19, Chapter 9) and would be a separate analysis than that completed as part of the NAAQS demonstration. Further, the air quality modeling that was conducted by Arkansas was conducted for NAAQS compliance demonstration purposes as part of the 110(l) non-interference demonstration. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) Because the PSD increment analysis and NAAQS analysis serve separate and distinct purposes, these analyses use different modeling approaches and often different model inputs. Therefore, a modeling demonstration conducted for NAAQS compliance cannot be relied upon to make a modeled PSD increment analysis determination, such as if a PSD increment violation exists. Therefore, we do not agree with the commenter that the NAAQS modeling indicates that the proposed SIP revision allows a violation of the PSD increments. We also do not agree that the modeled PM_{10} impacts exceed the referenced increments because the state's modeling analysis did not include a PSD increment analysis for comparison with the PSD increments to determine if a predicted exceedance occurred. In addition, we reiterate that a PSD increment analysis is not necessary as part of a 110(l) analysis to support revisions to a minor NSR permitting program, since the federal PSD increment analysis requirement at 40 CFR 51.166(a)(2) is not applicable to minor NSR programs.

Comment: The commenter stated that a comparison of emissions that could be exempt from the relaxed minor NSR with total statewide emissions across the state of more than 53,000 square miles does not give any indication of whether the exempted emissions would interfere with attainment or maintenance of the NAAQS or increments. As such, the commenter stated that the emissions comparison analysis does not provide information relevant to whether the relaxations to Arkansas' minor NSR program will interfere with attainment or maintenance of the NAAQS or any other CAA requirement.

Response: We do not agree with the commenter that the emissions inventory analysis for the emissions exempt from minor NSR permitting based on the revised permitting thresholds does not provide information that is relevant to the 110(l) analysis. This analysis serves to determine the scope, or portion of emissions that would not undergo minor NSR permitting requirements relative to the statewide emissions. The approach to determine the scope is independent of the physical size of the state since the emissions inventory analysis was conducted to compare exempt emissions with the statewide emissions inventory. As detailed in our proposed rulemaking the scope of emissions anticipated to be exempt from minor NSR permitting by the revised permitting thresholds was minimal. The pollutant-based emissions inventory analysis showed that the scope of emissions exempt from permitting based on the revised permitting thresholds ranged from 0.006% to 0.125% of the total statewide emissions. This analysis clearly demonstrates that the magnitude of emissions that would be exempt from minor NSR permitting program makes up an extremely small portion of the statewide emissions. The state did not rely solely on the emissions inventory analysis to demonstrate NAAQS compliance. This emissions inventory analysis was coupled with additional analyses specifically looking at ambient concentrations (monitoring trends analysis) and potential ambient impacts (modeling analysis) that were completed by ADEQ as part of the 110(l) demonstration. The modeling trends analysis looked specifically at the current status of ambient air quality and the trends in ambient concentrations since the 2008 state adoption and on-going implementation of the revised minor NSR permitting thresholds. The modeling analysis examined the potential impacts of the exempt emissions on ambient air quality via local and regional air quality modeling. (See the March 24, 2017 SIP Revisions Submittal Appendix C—2010 Minor NSR Permitting Thresholds and *De Minimis* Levels SIP Technical Support Document and Appendix D—Air Quality Modeling Analysis of Minor Source Permitting Thresholds. Monitoring analysis is discussed on pages 3–17 of Appendix C. Modeling analysis is discussed on pages 17–25 of Appendix C and pages 1–35 of Appendix D.) Regarding interference with increments, we previously responded regarding the non-applicability of PSD increment requirements to the 110(l) analysis completed for this rulemaking.

Comment: The commenter stated that ADEQ's emissions analysis was incomplete because it analyzed sources with allowable emissions less than the emission thresholds of Reg. 19.401 when the exemptions for new sources are not based on ''allowable emissions,'' but instead are based on ''actual emissions.'' The commenter also claimed the analysis was incomplete because it does not project total emissions that might be exempt from minor NSR in the future and instead reflects on sources that may request permits to be revoked because they are no longer subject to minor NSR permitting requirements found in Reg. 19, Chapter 4.

Response: We do not agree with the commenter that the emissions inventory analysis conducted for the permitting thresholds exemptions was incomplete. In their analysis, ADEQ compiled a complete list of all currently permitted minor NSR sources and determined which currently permitted sources would not be required to obtain a permit based on the revised permitting thresholds. It is important to note that this analysis included the review of all currently permitted facilities in the minor NSR program which spanned the entirety of the program—meaning all active minor NSR permits that had been issued by ADEQ. EPA originally SIP-approved the Arkansas construction permitting requirements in October

1976 (effective November 1976).[7] This means that ADEQ looked at all minor NSR permits that had ever been issued and were still active. To determine the percentage of emissions exempt from permitting, the permitted emission rates were totaled for each pollutant and compared with the total emissions from the statewide emissions inventory. The state's analysis based on the permitted allowable emissions is more conservative than the use of actual emissions for those permitted sources since they represent the maximum permit allowable emissions for the particular source. In most cases, the actual emissions would be less than the allowable emissions because of actual operations at less than maximum levels during a given calendar year and because of non-operational periods that may have taken place. If the state had further refined their analysis to determine the historical actual emissions emitted by the currently permitted sources which would not be required to be permitted under the new thresholds and compared the total actual emissions with the total statewide emissions inventory, the actual emissions would be expected to make up an even smaller fraction of the total statewide emissions.

As stated above, Arkansas conducted the emissions review as a part of the 110(l) demonstration to determine the scope of emissions that were previously subject to minor NSR permitting that would be exempt from permitting under the revised thresholds. As stated above, Arkansas reviewed their entire minor NSR permitting universe, which included all active permits that had historically been issued by ADEQ, to determine the currently permitted emissions that would be exempt from minor NSR permitting under the revised permitting thresholds.[8] They found that the magnitude of currently permitted emissions that would be exempt from minor NSR permitting was a fraction of a percent of the total emissions in the statewide emissions inventory. (The range of calculated percentages by pollutant was 0.006% to 0.125%.) While emissions will be exempt in the future, the emissions inventory analysis shows the percentage of statewide emissions that were exempt from permitting for the entire minor NSR program based on the revised permitting thresholds indicates that the magnitude of emissions exempt from minor NSR permitting in the future will continue to make up a small fraction of the total statewide emissions. In addition, the state's regulations require that a source exempt from minor NSR permitting based on the new revised permitting thresholds but with emissions greater than the previous thresholds obtain a registration in accordance with Reg. 18.315, which allows ADEQ to keep track of the sources exempt as a result of the new thresholds. In addition to the emissions inventory analysis, Arkansas provided additional analyses, both monitoring and modeling, to further show the limited potential impacts of the revised minor NSR permitting thresholds. The monitoring analysis examined statewide ambient air quality data since the adoption of the revised minor NSR permitting thresholds in 2008 for CO, NO_X, SO_2, VOC, and PM_{10}, including the examination of trends in design values (DVs). Since adoption of the revised thresholds, the DVs remain unchanged or show downward thresholds since the 2008 adoption of revised thresholds.[9] The modeling analysis included regional-scale photochemical and local-scale air dispersion modeling to examine the potential impacts from emissions exempt from minor NSR permitting based on the revised thresholds. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) As expected, both the regional and local modeling indicated some increases in model predicted concentration as a result of adding the exempt emissions into the modeled emissions inventory. However, for all pollutants and averaging period, the resulting ambient concentrations were less than the corresponding NAAQS. As stated in our proposed rulemaking, we find that the analyses submitted by Arkansas as part of the 110(l) demonstration show that the revised thresholds will not interfere with attainment or maintenance of the NAAQS.[10]

Comment: The commenter stated that the emissions inventory analysis of the *de minimis* increases allowed (based on the 2016 *de minimis* approvals) is not persuasive because, the increased *de minimis* thresholds have not yet been approved as part of the SIP, and thus it is not reasonable to assume that all sources that might take advantage of this rule did take advantage of this rule in 2016. The commenter also states that because the revised minor NSR permitting thresholds and *de minimis* levels have not been approved as part of the SIP, the state cannot infer anything in the monitoring trends analysis regarding the impacts of the revised minor NSR rules on air pollutant concentrations from reviewing past monitoring data and trends since it is likely that sources would be unwilling to rely on the revised values prior to SIP approval.

Response: We do agree with the commenter's claims that the SIP approval status of the revised minor NSR permitting thresholds and *de minimis* change levels impacts the validity or persuasiveness of the data included in the emissions inventory and monitoring trends analyses. While the revised *de minimis* change rule provisions are not approved into the current Arkansas SIP, they are adopted by the state into the state regulations and thereby state law. The CAA requires states to adopt, after reasonable notice and public hearings, revised regulations for submission to EPA as SIP revisions. (See CAA 110(a)(1)). Since adoption of the revised permitting thresholds and *de minimis* change levels into their states regulations, Arkansas has been implementing those revised levels through the issuance of Reg. 18 registrations and *de minimis* change approvals. Lookback information regarding the historical *de minimis* change approvals was specifically cited in the emissions inventory analysis portion of the 110(l) demonstration. The calendar year (CY2016) *de minimis* change approvals included approval issued based on the revised thresholds that were adopted as state law December 2008 (effective January 2009). ADEQ has subsequently provided more information regarding the number of Reg. 18 registrations (issued to those sources exempt from minor NSR permitting with emissions that fall within the old and revised permitting

[7] EPA originally approved the Arkansas requirements for permitting the construction of new and modified sources, which were contained in the Regulation of Plan (ROP) Section 4—Permits, on October 5, 1976, effective November 4, 1976. (41 FR 43904) EPA later approved the recodification of the permitting requirements for minor sources from ROP Section 4 into Regulation 19, Chapter 4—Minor Source Review on October 26, 2000, effective November 15, 2000. (65 FR 61103)

[8] Ibid.

[9] The Springdale ozone monitor was the only exception and showed increased DVs since 2008. ADEQ did further evaluation of the Springdale monitor and determined that the increase in the monitored ozone DVs at this monitor are likely due to the increase in mobile emissions in the Fayetteville-Springdale-Rogers MSA as a result of rapid population growth in that area (population grew by over 65,000 people in the 2007–2014 timeframe. The monitoring trends analysis included in the March 24, 2017 SIP submittal indicated that the 2012–2014 DV at the Springdale monitor was 67 ppb (as compared with the 2008 and 2015 O_3 NAAQS of 75 and 70 ppb, respectively).

[10] EPA's review of the monitoring and modeling analyses is detailed in Pages 27–33 of the Technical Support Document that accompanied our proposed rulemaking and if available in the docket.

thresholds) submitted and *de minimis* change approvals issued since the adoption of the revised regulations. This additional lookback information clearly indicates that sources have been utilizing the revised thresholds—75 registrations have been submitted since the permitting thresholds were revised and 476 *de minimis* change actions have taken place since 2010.[11] Because state law requires that if a source used either the minor NSR permitting thresholds or *de minimis* changes levels to avoid minor NSR permitting the source must submit the required registration (in accordance with Reg. 19.417 and Reg. 18.315) or obtain the required approval (in accordance with Reg. 19.407(C)(6)), a source not accounted for in the lookback information provided by ADEQ would have been, and still is, in violation of state law. Furthermore, ADEQ has indicated that since the adoption of the revised minor NSR permitting thresholds and *de minimis* change levels, they are not aware of any instance where a source has been unwilling to utilize the revised thresholds because of the status of the revisions with respect to the SIP.[12] Based on the historical information provided, we find that the data included in the emissions inventory and monitoring trends analyses is valid and reflects the reality and do not agree with the commenter that nothing can be inferred from those analyses regarding the impacts of the revised minor NSR permitting thresholds and *de minimis* levels. Following adoption of the revised permitting thresholds and *de minimis* change levels in 2008, Arkansas began implementing the revised provisions (at the owner or operator's own risk of federal enforcement) to exempt qualifying sources from minor NSR permitting requirements. The persuasiveness of data used in the monitoring trends analysis is not dependent on the SIP approval status.

Comment: The commenter stated that the *de minimis* exemption is based on a comparison of allowable emissions increases, thus it could allow larger increases in actual emissions than the tpy emissions thresholds in Reg. 19.407(C). Thus, the commenter states that any analysis, including the emissions inventory analysis, presented by ADEQ about the thresholds is not sufficient to ensure that the actual emissions increases allowed by the *de minimis* exemption will not threaten NAAQS attainment or maintenance or otherwise interfere with the control strategy. Similarly, the commenter also stated that the photochemical modeling also did not model the true increase in emissions that could be allowed—the actual emissions increases resulting from a *de minimis* change could be significantly higher than the *de minimis* levels and the actual emissions from a new source could exceed projected actuals that were used as a basis to exempt the source from permitting.

Response: We do not agree with the commenter that the emissions inventory analysis and modeling analysis provided by ADEQ is not sufficient to support the proposed revisions to the *de minimis* change levels. Also, we do not agree with the commenters that the analysis provided by Arkansas did not model the true increase in emissions that could be allowed under Arkansas' relaxed minor NSR program (*i.e.,* those emissions exempt from minor NSR permitting requirements based on the revised permitting thresholds and *de minimis* change levels) under the revised minor NSR program. As stated in our proposed rulemaking, the *de minimis* change levels listed in Reg. 19.407(C)(2)(a) are the maximum increases in permitted emission rates that can be exempt from minor NSR permitting requirements via the *de minimis* change rule. As such, to demonstrate that the proposed SIP revision resulting in revised *de minimis* change levels will not interfere with NAAQS compliance, it is reasonable that the 110(l) demonstration should evaluate the projected impacts resulting from the maximum emission increases allowed by the revised rule (*i.e.,* the *de minimis* change levels). As documented in the modeling report submitted as part of the March 24, 2017 SIP revision submittal, Arkansas did follow this approach in their 110(l) demonstration and evaluated the impacts resulting from emission rates equal to the *de minimis* change levels. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) When a source seeks authorization for a proposed change at a facility via the *de minimis* change provision, they are requesting authorization specifically for the increase in the permitting emission rates. The previously permitted emission rates underwent a previous minor NSR permitting review and were demonstrated to be in compliance with the NAAQS. Evaluation of emissions accounted for in the pre-*de minimis* change permitted emission rates, which were previously authorized and evaluated for NAAQS compliance under an existing permit, are beyond the scope of the 110(l) analysis for the revised *de minimis* change levels. Therefore, a NAAQS demonstration associated with the potential impacts from a *de minimis* change should be based on the magnitude of increases in the permitted emission rates, which are being authorized via the *de minimis* change rule. With respect to the photochemical modeling, the purpose of the modeling analysis submitted by Arkansas was to demonstrate that those emissions exempt from permitting based on the revised thresholds would not cause a NAAQS violation.

In the case of a new source that has actual emissions in excess of the minor NSR permitting thresholds without an issued permit authorizing those emissions, the source would be in violation of the minor NSR permitting requirements contained in Reg. 19, Chapter 4, and they could be subject to an enforcement action. For example, if a source was initially constructed as a seasonal source with emission below the de minimis levels, it is exempt from permitting. However, if the source's actual emissions rise above those levels without first obtaining a permit, it would be in violation of minor NSR. It is reasonable (for the purposes of demonstrating compliance with 110(l)) to assume a new source would be required to obtain a permit to authorize the emissions and demonstrate they will not cause or contribute to a violation of a NAAQS if they have actual emissions above the minor NSR permitting thresholds. Therefore, the scenarios involving potentially violating sources are not a reasonable scenario to be included in an analysis conducted to support the minor NSR permitting thresholds.

In the case of a *de minimis* change, the emissions exempt from minor NSR permitting by the *de minimis* change rule are the increases in the permitted emission rates. For the *de minimis* revisions to be approvable the analysis should demonstrate that the increases in the permitted emissions will not cause a NAAQS violation. By modeling the minor NSR permitting thresholds and *de minimis* change levels for each pollutant, Arkansas did evaluate the prospective impacts associated with the emission levels that could qualify for exemption from minor NSR permitting requirements under the revised rule.

[11] The number of Reg. 18 registrations submitted and *de minimis* change actions provided via emails received from Ms. Tricia Treece, ADEQ, on July 5, 2017.

[12] Information regarding source inquiries to utilize SIP-approved thresholds instead of revised thresholds provided during telephone discussion between Ms. Ashley Mohr, EPA, and Mr. Thomas Rheaume and Ms. Tricia Treece, ADEQ, on March 16, 2018.

Comment: The commenter stated that the analysis of the *de minimis* increases allowed (based on the 2016 *de minimis* approvals) is not persuasive because 2016 only reflects one year of implementation and this rule will be in effect for the foreseeable future.

Response: We do not agree with the commenter that the emissions inventory analysis for the *de minimis* changes is not persuasive because it is limited to 2016. CY2016 provides a portion of time when the revised thresholds were being relied upon by owners and operators in Arkansas. The review of emissions associated with *de minimis* changes limited to CY2016 found that the 2016 emissions inventory analysis shows the percentage of statewide emissions exempt by the *de minimis* change levels in the range of 0.0005 to 0.019%. While the analysis was limited to one calendar year, as discussed in our proposal, at these percentage levels it would require over 50 times the NO_X emissions authorized in 2016 to approach 1% of the statewide emissions and over 300 times the emissions for the other pollutants. In addition, this analysis conservatively did not account for any emissions decreases occurring as part of the approved *de minimis* changes. In addition, the analysis for 2016 was conservative in that it did not account for emissions decreases that did occur as part of the *de minimis* changes. We believe that additional analysis beyond one calendar year is unnecessary because the CY2016 data, that did not account for any associated emissions decreases, shows that exempt emissions makes up such a small fraction (much less than 1% for all pollutants) of the total statewide emissions.

Comment: The commenter restates that a comparison of emissions that could be exempt from minor NSR permitting based on the revised *de minimis* change levels with total statewide emissions does not give any indication of whether the exempt emissions would interfere with attainment or maintenance of the NAAQS because of the various factors (such as: Stack parameters, operational stages, topography, and meteorology) that dictate ambient impacts. Because of the variability of these factors between sources, the commenter stated that the fact that two sources have similar annual emissions is not a rational basis to claim that they have similar ambient impacts.

Response: We do agree with the commenter that a variety of factors may dictate ambient impacts, and that reliance on the state's emissions inventory analysis does not demonstrate non-interference with the NAAQS. Instead, the emissions inventory analysis serves to determine the scope, or portion, of emissions that would not undergo minor NSR permitting based on the revised thresholds. However, the state did not only rely upon the emissions inventory analysis to demonstrate NAAQS compliance. The state addressed ambient concentrations and potential ambient impacts by looking specifically at the current status of ambient air quality, the historical ambient air quality trends since adoption in 2008 and the on-going implementation of the revised *de minimis* levels, and the potential impacts of the exempt emissions on ambient air quality via local dispersion (AERMOD) and regional photochemical (CMAQ) air quality modeling. As previously discussed in our responses, the monitoring analysis shows that since the adoption and implementation of the revised permitting thresholds and *de minimis* change levels the overall trends in DVs are either unchanged or decreasing. Meanwhile, the local and regional modeling analyses show that model predicted concentrations resulting from the addition of the emissions exempt from permitting remain less than the NAAQS. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) While the emissions inventory analysis served to determine the scope, or portion of emissions that would not undergo minor NSR permitting requirements based on the revised *de minimis* change levels relative to the statewide emissions, the monitoring and modeling analyses completed as part of the 110(l) analysis accounted for the various factors cited by the commenter in evaluating the impacts of the revised *de minimis* levels. Specifically, the results from the air quality modeling analyses were impacted by the following factors, which are included as air quality model inputs: Emissions, stack parameters, topography and meteorology.

Comment: The commenter stated that there are numerous other factors that came into play during the same timeframe that could cause pollutant concentrations to decrease in the timeframe right after the December 2008 adoption of the minor NSR rule relaxations, including: The Great Recession began in 2007 and continued through 2009; natural gas prices dropped significantly and renewable sources of power generation became more competitive, reducing demand for coal-fired power plants which was replaced by gas turbines and renewables; various vehicle emission and liquid fuel standards came into effect; and less fuel efficient vehicles were replaced with more fuel efficient vehicles. The commenter stated that these factors make it very difficult for ADEQ to infer anything regarding the relaxations to its minor NSR program through the review of how air monitoring design values have changed over time.

Response: We agree that the monitoring data reflects not only the impacts of the revised thresholds and *de minimis* levels, but other factors such as those cited by the commenter as well. However, the monitoring analysis does show that since Arkansas' adoption in 2008 and ongoing implementation of the revised values, the monitored ambient concentration data shows no NAAQS issues along with overall decreasing trends in DVs for some pollutants indicative of improved air quality since 2008. The monitoring analysis submitted by Arkansas spanned eight years of ambient data (2007–2014, which includes and extends beyond the time period referenced as ''the Great Recession'' by the commenter). The 8-year period covered in the ambient monitoring study is a reasonable and representative period of time to examine the impacts of the revised thresholds while also accounting for the variability in the other factors that may contribute to ambient concentrations. Further, we would like to point out that a NAAQS demonstration, including demonstrations of non-interference with attainment or maintenance of the NAAQS under section 110(l), should reflect ambient air quality as a whole, which would take into account the impacts on ambient concentrations resulting from the revised minor NSR regulations, as well as, the other factors mentioned by the commenter. As shown in the referenced monitoring analysis, the resulting ambient concentrations including the impacts from the minor NSR program revisions do not indicate NAAQS compliance issues. As stated in our proposal, the monitoring trends analysis is one part of the demonstration provided by Arkansas that supports the finding that the revised permitting thresholds and *de minimis* levels will not adversely impact NAAQS attainment or maintenance. In addition to the monitoring analysis, the modeling analysis is an important element of the NAAQS compliance demonstration and as discussed in our proposed rulemaking and previous responses, the modeling results indicate that the addition of the emissions exempt from minor NSR permitting requirements will

not interfere with NAAQS compliance. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.)

Comment: The commenter stated that because the state does not have a monitoring network that covers all pollutants and all areas of the state where industrial sources are constructing and operating, a review of the monitoring data from Arkansas monitors provides an incomplete picture of the NAAQS attainment status around the state.

Response: We do not agree that Arkansas' submittal provided an incomplete picture of NAAQS attainment around the state. The ambient monitoring analysis was one part of the demonstration provided by the state to meet the 110(l) requirement. The monitoring trends analysis discussion included in Appendix C of the March 24, 2017 SIP revision submittal includes a figure showing the Arkansas Ambient Air Monitoring Network. This network includes ambient monitoring for the NAAQS [13] at monitoring sites located throughout the state in accordance with federal requirements.[14] The State of Arkansas' ambient air monitoring network is reviewed each year to ensure the air quality surveillance system continues to meet applicable requirements. The most recent review of the ambient air monitoring network for Arkansas, the 2017 Annual Monitoring Network Plan, was reviewed and approved by EPA on October 3, 2017, as meeting the requirements of 40 CFR and its appendices. The analysis of the available monitoring data does provide valuable information about the current ambient air quality in the state, and the historical trends analysis of the data shows that since the adoption in 2008 and the ongoing implementation of the revised exemption thresholds, ambient air quality has not been adversely impacted. In fact, as discussed in our proposed rulemaking, for several pollutants the ambient air quality has shown continued improvements since the state adoption and implementation of the revised thresholds. This information was supplemented by the additional analyses conducted by Arkansas, one of which specifically addresses the comment regarding the completeness of the picture of attainment status around the state. As discussed in our proposed rulemaking, Arkansas completed a modeling analysis to determine the potential impacts from sources exempt from permitting based on the revised minor NSR permitting thresholds and *de minimis* change levels, which included statewide modeling. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) Arkansas conducted photochemical modeling to support the revised thresholds based on a previous statewide modeling effort conducted for the 2008 base year and the 2008/2015 future year scenarios. For the minor NSR thresholds analysis, the future year (2015) emissions inventory was modified to include eight hypothetical point sources that were distributed throughout the state's Air Quality Control Regions. The emission rates for each of the hypothetical sources were set equal to the revised minor NSR permitting thresholds and *de minimis* levels. The statewide maximum impacts for each day resulting from the hypothetical sources was added to the unmodified future year concentration for each day and grid cell. The resulting concentrations represented the maximum ambient concentrations including impacts from the threshold emission increases at any location located throughout Arkansas. While the results from the photochemical modeling showed that while the addition of the hypothetical source emissions may increase the predicted concentrations within most grid cells, the calculated FDVs were still less than each of the NAAQS at each monitoring site. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.)

Comment: The commenter stated that it is not appropriate to rely on a modeling assessment intended to estimate future pollutant concentrations out to 2015 to assess whether Arkansas' relaxed minor NSR program will interfere with attainment or maintenance of the NAAQS. The commenter based their statement on the possibility that some of the rules that were relied on for the 2015 emission inventories could go away, the possibility of an economic boom in the state, the possibility of growth in a certain type of industry, or a combination of these events, which in turn could result in the approval of this SIP relaxation interfering with attainment or maintenance of the NAAQS in the future despite the CMAQ (photochemical) modeling predictions for 2015.

Response: We do not agree with the commenter that the use of the future year (FY) modeling for 2015 is not appropriate.[15] Arkansas submitted several analyses as part of the 110(l) demonstration, with the modeling assessment being one part of the demonstration submitted to support the proposed revisions to the Arkansas SIP. As such, our determination regarding the approvability of the SIP revisions relied on the combined demonstration and not just one element. Regarding the use of the future year modeling, Arkansas used this modeling in combination with the baseline modeling to determine RRFs both with and without the hypothetical exempt sources to calculate FDVs) [16] [17] [18] These FDVs were used to compare and contrast those DVs and determine the potential impacts of the exempt sources. This approach allowed for a quantitative comparison to determine what potential impacts would be expected from the

[13] EPA has set National Ambient Air Quality Standards for six principal pollutants, called criteria pollutants: Carbon Monoxide (CO), Lead (Pb), Nitrogen Dioxide (NO_2), Ozone (O_3), Particulate Matter (PM), and Sulfur Dioxide (SO_2), as indicated in 40 CFR part 50 and appendices.

[14] See 40 CFR part 58 and its appendices for federal requirements related to measuring ambient air quality and for reporting ambient air quality data and related information.

[15] Arkansas's initial statewide criteria pollutant modeling was conducted prior to 2015 using base case years of 2005 and 2008 and a future year of 2015. The final modeling report detailing this initial modeling entitled ''Criteria Pollutant Modeling Analysis for Arkansas'' dated July 28, 2014 was included in the March 24, 2017 SIP revision submittal. Arkansas relied upon the 2015 modeling scenario from this statewide modeling as the baseline scenario in the minor NSR permitting thresholds and *de minimis* change levels modeling. They modified the 2015 emissions inventory to include the hypothetical source to represent the addition of emissions from a newly exempt emissions source based on the revised thresholds in order to examine the potential impacts and sensitivity of model predicted ambient concentrations to the exempt emissions.

[16] A RRF is the ratio of future case modeled concentrations to base case modeled concentrations, which is used to quantify the relative impacts of the emissions added to the model. In the photochemical modeling conducted by ADEQ, the base case modeled concentrations are taken from the 2015 modeling without the hypothetical sources added while the future case modeling results are taken from the 2015 modeling plus the 8 modeled hypothetical sources. Therefore, the RRFs calculated in this modeling analysis quantify the relative impacts from the additional emissions from the hypothetical sources that would be exempt from permitting based on the new thresholds/*de minimis* levels.

[17] RRFs can be used to estimate FDVs, which are determined by applying the RRF ratios to monitored design values from the base year taken from ambient monitoring data.

[18] Arkansas applied the RRFs derived from the 2015 baseline and 2015 baseline with hypothetical sources modeling analyses to calculated FDVs at all ambient monitoring locations for each pollutant. The difference between these FDVs represents the impacts from the hypothetical source emissions on ambient air quality. Appendix D of the March 24, 2017 SIP revision submittal contains the details of this analysis including the calculated RRFs and FDVs.

additional emissions associated with sources and/or *de minimis* changes that would be exempt from minor NSR permitting requirements based on the revised thresholds. The quantitative comparison provided information regarding relative difference in impacts both with and without the newly exempt emissions compared with the NAAQS. When conducting future year modeling, informed assumptions must be made and some of these assumptions may differ from the actual real world conditions present when the future year becomes the present.[19] However, it is important to note that the future year modeling approach was conducted in order to quantify the relative change in ambient concentrations resulting from the added potential impacts from the newly exempt sources using RRFs. Specifically, this analysis results in the calculation of FDVs both with and without the hypothetical source emissions and the difference between the FDVs represents the modeled predicted impacts from those emissions on ambient concentrations. The results of this quantitative comparison of ambient impacts with and without the newly exempt sources are not expected to deviate significantly, even with actual real world conditions potentially being different than the assumed modeled conditions, since the analysis focused on the relative impacts of the addition of the hypothetical source emissions. We believe that the future year modeling approach used by Arkansas that focused on the quantitative difference in the relative ambient impacts with and without the hypothetical sources is reasonable and informative for a 110(l) demonstration in that it specifically evaluated the impacts from newly exempt emissions based on revised minor NSR permitting thresholds and *de minimis* levels. The concerns raised by the commenter regarding the state's ability to predict the exact conditions of a future year do not change our determination that this approach is reasonable. In fact, the inclusion of informed assumptions in a future year modeling analysis is not only reasonable, but also necessary, since neither we nor Arkansas can know with any certainty what emissions and/or sources may change in the future. The inclusion of informed assumptions in the modeling analysis provides a reasonable estimate of future levels, given the inability to foresee the future. If ADEQ modified or removed any SIP-approved regulations (as relied upon to make these assumptions) and relax the SIP and render them substantially inadequate to attain or maintain the relevant NAAQ's standard, EPA has the authority to publish a SIP call **Federal Register** notice requiring the state to adopt and submit a 110(l) justification for the relaxation. Regarding the commenter's concern with potential boom in industrial growth, those sources seeking a construction permit, such as a PSD permit, would have to demonstrate NAAQS compliance as part of their permit application modeling. As such, we find that the state's analysis based on future year photochemical modeling, along with the additional modeling, monitoring, and emissions inventory analyses, demonstrate that the revised thresholds are not expected to adversely impact the state's ability to attain and maintain the NAAQS.

Comment: The commenter stated that photochemical modeling submitted by Arkansas in support of the SIP revisions does not give a rational picture of the effect the SIP relaxations could have on air quality in Arkansas. The commenter stated that first, there could clearly be more than 8 sources, which was the number of sources included in the photochemical modeling, exempt from permitting under the revised minor NSR rules. The commenter also stated that the photochemical modeling did not model the worst case conditions such as terrain, stack height, stack temperature and velocity.

Response: While we agree with the commenters that the potential number of exemptions resulting from the revised rule may not be limited to 8 sources, we do not agree with their assessment that the modeling analysis was limited to the impacts from only those 8 sources. Arkansas submitted statewide modeling that accounted for cumulative impacts from the 8 hypothetical sources along with the emissions contained in the statewide emissions inventory. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) The 8 modeled sources were distributed throughout the state's Air Quality Control Regions. The modeling results showed the impacts of the addition of these eight hypothetical sources to the predicted ambient concentrations. In addition, the modeling extrapolated for the maximum modeled impacts from the hypothetical sources applied at each modeled grid cell throughout the state. In addition to examining the modeled impacts from these 8 hypothetical sources in their chosen locations in the Air Quality Control Regions, the modeling analysis conducted by Arkansas also looked at the impacts of sources with emissions equal to the revised thresholds throughout the state. This analysis was accomplished by determining the statewide maximum modeled impacts in the photochemical modeling for each day resulting from the hypothetical sources and adding those impacts to the unmodified future year concentration for each day and grid cell. This approach allowed the examination of the maximum predicted hypothetical source impacts combined at different geographic/topographic locations along with looking at those impacts combined with a variety of cumulative source inventory impacts throughout the state. It is impossible for the state to project each source that may be exempt under the revised rule and unreasonable to expect the inclusion of every potentially exempt source within an air quality modeling analysis. We determined that the approach used by Arkansas to include a number of hypothetical sources throughout the state and to examine the combined impacts of these sources with background emissions sources at each modeled grid cell in Arkansas provides information and a rational picture regarding the potential impacts of newly exempt emissions throughout the state. By modeling these 8 hypothetical sources with emission rates equal to the revised thresholds, the state's approach provided for the examination of the actual model predicted impacts at locations within each Air Quality Control Region from the maximum level of emissions that could be exempt from permitting for a source based on the revised minor NSR permitting thresholds and *de minimis* change levels. As a second step, the approach to apply the daily maximum modeled impacts from the hypothetical sources to each grid cell for each day in the modeled period provided for the examination of the impacts of the exempt emissions at each grid cell throughout the state. In the case of the minor NSR program revisions proposed by Arkansas, the state developed a 110(l) demonstration comprised of air quality modeling, as well as an emissions inventory analysis and a monitoring trends analysis. As stated in our proposed rulemaking, we found in

[19] The methodology used by Arkansas to develop the modeled future year 2015 emissions inventory is detailed in Section 3.6 of the ''Criteria Pollutant Modeling Analysis for Arkansas'' report provided in Appendix D of the March 24, 2017 SIP revision submittal. The 2015 emissions inventory was assumed equal to the 2014 emissions inventory with no further adjustments that were prepared based on as part of the EPA's 2005-based platform, which included future year cases developed from it, that was used in the Final Transport Rule modeling (available at *ftp://ftp.epa.gov/EmisInventory/2005v4_2/*). Arkansas did adjust the emissions inventory to include a new facility (AEP Service Corporations' John W. Turk, Jr. facility located in southwestern Arkansas.

combination that the modeling analysis along with the other analyses submitted by the state demonstrated that the proposed revisions would not interfere with NAAQS attainment or maintenance. Based on our review, we find the analysis conducted and the methods used to be appropriate and sufficient to support the proposed SIP revisions, especially for exemptions from minor NSR permitting requirements that are expected to make up fractional percentages (<1% for all pollutants) of the total emissions in the statewide emissions inventory—as documented in the state supplied emissions inventory analysis.

Regarding the commenter's statement regarding the modeling of worst-case conditions, we do not agree with the commenter. The modeling of the worst case conditions such as terrain, stack height, stack temperature and velocity is inappropriate for assessing whether the relaxed applicability to Arkansas' minor NSR rule would violate the NAAQs. The hypothetical sources included in the 110(l) demonstration modeling were meant to represent the exempt emissions that could occur from a variety of sources and were being modeled to examine the potential impacts from exempt emissions as part of the demonstration of non-interference with attainment or maintenance of the NAAQS under CAA section 110(l). Arkansas determined representative values to be used as model inputs for the hypothetical sources by reviewing real world stack parameters available through their emissions inventory data. Based on their review, the state chose the average stack conditions from the emissions inventory data as the representative inputs for the modeled hypothetical sources. As stated in the modeling report included in the March 24, 2017 SIP revision submittal and in our proposed rulemaking, the state modeled the hypothetical sources with the maximum emissions exempt by the rule (*i.e.,* emissions equal to the thresholds values), even though not all exempt sources would have those emissions levels.

The use of the worst case conditions (as referenced by the commenter) is typically applied in modeling for an existing source or a proposed source of known type/size and location as part of a case-by-case NSR modeling analysis, such as a modeling analysis completed as part of a PSD permit action. In the case of the modeling analysis conducted by Arkansas to support the proposed SIP revisions, the state was examining the potential impacts of emissions exempt from minor NSR permitting by adding hypothetical exempt sources to represent those added emissions in the modeled emissions inventory. The modeling conducted by Arkansas as part of the 110(l) demonstration modeling serves a different purpose, and therefore is inherently different than PSD permit modeling. PSD permit modeling is conducted as part of the source analysis PSD requirement (40 CFR 51.21(k)) to examine the impacts from the construction or major modification of a specific, known PSD source where model inputs are based on the actual design and operational parameters of the emission points located at the source. That said, we do not agree that the modeling analysis conducted by Arkansas did not take terrain into account. As discussed previously in this response, at least one of the modeled hypothetical sources was located in each of the AQCRs. This allowed the examination of model predicted impacts across the different geographic and topographic areas in the state, including those areas in NW Arkansas with more elevated/complex terrain (1 source located in AQCR 17 and 2 sources located in AQCR 21), which are expected to have higher impacts. As discussed in our evaluation of the photochemical modeling conducted by Arkansas, the model predicted impacts from the hypothetical sources did not indicate any model predicted violations of the NAAQS for any pollutant or averaging period. The photochemical modeling approach was one element of the 110(l) demonstration provided by the state to support the proposed SIP revisions. The approaches used by Arkansas in their modeling demonstration to determine the potential impacts from the newly exempt emissions were reasonable and appropriate for 110(l) analysis being conducted to demonstrate non-interference, especially considering the small amounts of emissions expected to be exempt from minor NSR permitting based on the revised rule relative to the current statewide emissions.

Comment: The commenter stated that the photochemical modeling gave no justification for where it located the sources within the state and it is not clear if the sources were located in areas where the source's plume could cause high concentrations due to nearby elevated terrain or in areas where there are other significant sources of air pollutants to determine the cumulative impacts.

Response: We do not agree with the commenter that no justification was provided for the location of the hypothetical sources within the photochemical modeling. Arkansas did state that they placed at least one source in each of their Air Quality Control Regions. They also stated that the sources were typically located in or near more urban areas of the state. A figure was included in the modeling report showing the location of the modeled sources relative to the populated areas in the state, which are also more likely to have larger ''background'' emissions within the modeled emissions inventory. (See the March 24, 2017 SIP Revision Submittal, Appendix C—2010 Minor NSR Permitting Thresholds and *De Minimis* Levels SIP Technical Support Document, Figure 19.) The chosen locations allowed for the examination of impacts throughout the various regions of the state, focused on the more populated areas. As stated in our previous response, two of the modeled hypothetical sources were included in the areas in NW Arkansas with more elevated/complex terrain (1 source located in AQCR 17 and 2 sources located in AQCR 21). Additionally, the modeling approach used by the state in their 110(l) demonstration included a separate analysis to specifically examine the model predicted concentrations at each grid cell throughput the state when the maximum modeled impacts from the hypothetical sources were applied. This approach allowed the examination of the maximum hypothetical source impacts combined at different geographic locations along with looking at those impacts combined with a variety of cumulative source inventory impacts throughout the state.

Comment: The commenter stated that the photochemical modeling did not attempt to take into account the cumulative impacts of exempt sources or modifications, and it did not include the possibility of multiple exempt sources locating nearby each other, nor did the modeling attempt to model more than one exemption at a single or multiple sources over time.

Response: As discussed previously in our responses, we do not agree that cumulative impacts analysis was not conducted as part of the state's modeling analysis. The photochemical modeling analysis combined the impacts from the hypothetical sources with the impacts of background emissions inventory sources via emissions inventory model inputs.[20] Further, this cumulative impacts analysis was conducted in such a way

[20] As discussed in Arkansas's ''2010 Minor NSR Permitting Thresholds and *De Minimis* Levels SIP Technical Support Document'' (Appendix C to March 24, 2017 SIP revision submittal), the CMAQ photochemical modeling requires as input, hourly, gridded pollutant emissions from both anthropogenic and biogenic sources.

as to examine the maximum modeled impacts from the hypothetical sources with the impacts from the background emissions inventory sources at each grid cell in the state. Regarding the cumulative impacts from multiple exempt sources potentially located nearby each other, the modeling report included in the March 24, 2017 SIP revision submittal stated that ''since the modeled impacts occur within or nearby the source location, cumulative effects from multiple sources in multiple grid cells are expected to be small.'' Based on the 110(l) demonstration provided by Arkansas, which included modeling that looked at cumulative impacts from hypothetical exempt sources and the background emissions sources inventory, we do not find the revised thresholds to adversely impact the NAAQS.

Comment: The commenter stated that there is no indication that the modeling took into account variability of emission rates over time to account for the very likely possibility that an exempt source could emit at higher rates over shorter periods of time rather than emitting at a consistent level.

Response: It is unreasonable to expect the type of modeling conducted by Arkansas to examine the potential impacts of a small subset of minor sources that make up much less than 1% of the total emissions in the statewide emissions inventory (less than or equal to 0.125% of the statewide emissions for minor NSR permitting thresholds; less than or equal to 0.019% of the statewide emissions for *de minimis* change levels) to include variable emissions modeling. The evaluation of impacts from variable emission rates is typically associated with modeling an existing source or a proposed source of known type/size and operation as part of a case-by-case NSR modeling analysis (such as the modeling conducted for PSD permitting). As stated in our previous responses, the modeling analysis conducted by Arkansas as part of the SIP revision submittal was completed as part of a 110(l) demonstration for the purposes of determining the potential impacts of the revised missions exempt from minor NSR permitting by adding hypothetical exempt sources to represent those added emissions in the modeled emissions inventory. Modeling conducted as part of the 110(l) demonstration is conducted to determine whether a SIP revision will interfere with attainment or maintenance of the NAAQS, any required milestone, or any other requirement of the Act. Because the modeled sources were hypothetical in nature, source-specific information including emission rates and their potential variability, cannot be available, nor does it need to be. As stated in the modeling report included in the March 24, 2017 SIP revision submittal and in our proposed rulemaking, in the modeling analysis the hypothetical source emission rates were set equal to the revised minor NSR permitting thresholds and *de minimis* change levels to examine the potential impacts resulting from the newly exempt emissions. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) The approaches used by Arkansas in their modeling demonstration to determine the potential impacts from the newly exempt emissions were reasonable and appropriate for the type of analysis being conducted, especially considering the relatively small amount of emissions expected to be exempt from minor NSR permitting based on the revised rule compared to statewide emissions.

Comment: The commenter stated that because presumably the same emission rates, stack parameters, and sources locations were modeled with AERMOD (dispersion model) as were modeled in the CMAQ photochemical modeling. Therefore, they stated that all of the prior comments raised with the CMAQ (photochemical) modeling also apply to the AERMOD (dispersion) modeling results. The commenter also stated that there is no indication that the air dispersion modeling accounted for impacts from startup, shutdown and malfunction emissions.

Response: The comments raised on the CMAQ photochemical modeling were addressed above. Those responses would also apply to the AERMOD dispersion modeling, with some slight clarifications due to the inherent differences between photochemical and dispersion modeling analyses. We provide the following clarification related to the comments raised on cumulative impacts analyses since the CMAQ photochemical modeling and AERMOD dispersion modeling have different approaches to account for cumulative impacts because the models differ on how off-site background sources emissions inventories are represented and how impacts are determined. As discussed in the modeling report included in the March 24, 2017 SIP revisions submittal, the CMAQ photochemical modeled concentrations/impacts from the background emissions inventory sources were included as background values in the AERMOD dispersion modeling and added to the AERMOD dispersion modeled concentrations from the hypothetical sources to determine cumulative impacts from the exempt emissions and the off-site emissions. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) Although these approaches differ because of the nature of the modeling system used, both the CMAQ photochemical and AERMOD dispersion modeling analyses include the cumulative impacts of the hypothetical sources plus the background emissions inventory sources.

Regarding the modeling of impacts from startup, shutdown and malfunction emissions, the evaluation of impacts from routine and/or predictable startup and shutdown emissions would be associated with modeling an existing source or a proposed source of known type/size and operation as part of a case-by-case NSR modeling analysis, such as PSD permit modeling.[21] The routine and predictable startups and shutdowns are permitted emissions which are accounted for in the emissions inventory. As stated in our previous responses, the hypothetical sources included in the 110(l) demonstration modeling were meant to represent the exempt emissions that could occur from a variety of sources and were being modeled to examine the potential impacts from exempt emissions. Because the modeled sources were hypothetical in nature, information regarding source inputs including a small subset of their emissions such as source-specific startup, shutdown and malfunction emissions, was not available, nor should it be. Further, the emissions expected to be exempt from minor NSR permitting based on the revised permitting thresholds and *de minimis* levels made up much less than 1% of the total statewide emissions (less than or equal to 0.125% of the statewide emissions for minor NSR permitting thresholds; less than or equal to 0.019% of the statewide emissions for *de minimis* change levels) meaning that the startup, shutdown and malfunctions being a small subset of total emissions would make up an even smaller fraction of the statewide emissions. The commenter's expectation for this type of analysis is unreasonable on the basis that these emissions make up such a small fraction of the statewide emissions (that is, a small subset of the total exempt emissions that are

[21] Any emissions resulting from unplanned startup or shutdown activities or from malfunctions, and therefore not accounted for in the NSR permit authorization, would be considered violations of the SIP unless these emissions limits are reflected in a NSR SIP or a SIP rule.

anticipated to make up much less than 1% of the statewide emissions). As stated in the modeling report included in the March 24, 2017 SIP revision submittal and in our proposed rulemaking, the hypothetical source emission rates were set equal to the revised minor NSR permitting thresholds and *de minimis* change levels to examine the potential impacts resulting from the newly exempt emissions. The approaches used by Arkansas in their modeling demonstration to determine the potential impacts from the newly exempt emissions were reasonable and appropriate for the type of analysis being conducted, especially considering the relatively small amount of emissions expected to be exempt from minor NSR permitting based on the revised rule compared to statewide emissions.

Comment: The commenter stated that the dispersion modeling did not include the modeling of line sources and that fugitive PM_{10} emissions often cause increment and NAAQS violations. Therefore, the commenter claims that the AERMOD (dispersion) modeling does not reflect reasonable worst case impacts that could occur due to the sources and *de minimis* changes exempt from minor NSR based on the SIP revisions.

Response: As discussed in our previous responses, the worst case impacts conditions (or potential worst case source type in the case of this comment) referenced by the commenter are typically associated with case-by-case NSR modeling of an existing source or a proposed source with known stack/emission characteristics (such as, modeling associated with a PSD permit action). This would also be the case for the modeling of line sources mentioned by the commenter. The 110(l) demonstration modeling conducted by Arkansas in support of the SIP revisions has a different purpose and associated requirements than case-by-case NSR modeling. As discussed in our earlier response to the comment raised regarding worst case stack parameters, Arkansas relied on real world stack parameters available in their emissions inventory data to determine representative stack parameters to represent emissions newly exempt from minor NSR permitting via the inclusion of hypothetical sources in their modeling analyses. Specifically, they reviewed the stack parameters and determined the average stack parameters included as hypothetical point sources with emissions set equal to the minor NSR permitting thresholds and *de minimis* change levels. Because the modeled sources were hypothetical in nature, source-specific information including whether or not any portion of the emissions were fugitive in nature (such as road emissions) versus stack emissions, cannot be available, nor does it need to be. Modeling of hypothetical sources with emissions rates set equal to the revised minor NSR permitting and *de minimis* change thresholds ensures that the analysis accounts for the maximum amount of emissions that would be exempt from minor NSR permitting based on the revisions. The approaches used by Arkansas in their modeling demonstration and their reliance on representative stack parameters to determine the potential impacts from the newly exempt emissions were reasonable and appropriate for the type of analysis being conducted, especially considering the relatively small fraction of emissions expected to be exempt from minor NSR permitting based on the revised rule compared with statewide emissions.

Comment: The commenter stated that the revised Arkansas NSR program conflicts with the requirements of section 110(2)(C). More specifically, the commenter stated that the *de minimis* change exemptions will exempt most if not all modifications at existing major stationary sources from minor NSR permitting. They indicate that this is in direct contrast with the intention for the new source review program required by CAA section 110(a)(2)(C) and 40 CFR 51.160 to be a backstop on threats to attainment or maintenance of the NAAQS posed by new source growth that is not planned for in existing SIP rules.

Response: We do not agree with the commenter that the *de minimis* exemptions will exempt most if not all modifications at existing major stationary sources from minor NSR permitting. As previously stated in our responses, the SIP-approved Arkansas NSR program is comprised of two types of review: ''Minor Source Review'' and ''Major Source Review''. Arkansas operates a so-called ''merged, one permit'' system, which is divided into these two types of review based on whether a source is required to obtain a title V operating permit. As such, ''Minor Source Review'', which is contained in Reg. 19, Chapter 4, applies only to those *sources* that are not subject to title V permitting and require only a title I minor NSR authorization.[22] Any source that would be a major source for purposes of PSD review would also be a major source subject to title V permitting. *Compare* 40 CFR 52.21(b)(1) (establishing major source thresholds of 100 and 250 tons per year) *with* Reg. 26, Chapter 2 (defining major sources to include, *inter alia,* any source with the potential to emit 100 tons per year). Therefore, any source subject to title V, which would include any new PSD major source and/or any modification to an existing PSD major source, cannot utilize the *de minimis* change exemption found at Reg. 19.407(C). Instead, all modifications at title V sources that are not be subject to Reg. 19, Chapter 9 would instead be subject to the ''Major Source Review'' requirements found in Reg. 26 and incorporated by reference in Reg. 19, Chapter 11 and cannot use the *de minimis* change provisions, which are limited to ''Minor Source Review'' in Chapter 4 of Reg. 19. The revisions addressed in our proposed rulemaking are limited to ''Minor Source Review'' under Chapter 4 of Reg. 19 and do not impact ''Major Source Review'' in Chapter 11, which has already been approved into the SIP as part of Arkansas' minor NSR program, most recent approval on March 4, 2015 (See 80 FR 11573), and which contains the permitting requirement provisions applicable to the modifications not subject to Reg. 19, Chapter 9 at all title V sources, including all of the sources referenced by the commenter.

Comment: The commenter stated that the NSR program required by CAA section 110(a)(2)(C) and 40 CFR 51.160 is intended to be a backstop on threats to attainment or maintenance of the NAAQS posed by new sources growth that is not planned for in existing SIP rules. Because of the commenter's assessment that NSR program is an important part of the SIP, they stated that EPA cannot approve exemptions from a minor NSR program unless it is shown that the exemptions are truly *de minimis* to the purposes of the program.

Response: We agree that the NSR program is an important part of the SIP but this does not mean that under the CAA and the minor NSR SIP rules, EPA cannot approve exemptions from a *minor* NSR program. Consequently, what is relevant is whether or not the revisions to the Arkansas minor NSR program are approvable under the plain reading of the applicable statute and rules. There is no regulatory or statutory

[22] As stated in our original SIP approval of Chapter 4, ''[a] minor source is any source which does not meet the requirements of a major source. The Act in section 302(j) defines the terms ''major stationary source'' and ''major emitting facility'' as ''any stationary facility of source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year of more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).'' ''

prohibition that prohibits the types and/or sizes of sources that could be exempt from the minor NSR program. In fact, the minor NSR SIP rules at 40 CFR 51.160(e) only require that the minor NSR program include procedures that ''identify types and sizes of facilities, buildings, structures, or installations which will be subject to review under this section. [and] The plan must discuss the basis for determining which facilities will be subject to review.'' These rules furthermore require that the plan must ensure that the issuance of minor NSR permits not result in a violation of the control strategy or interfere with the attainment or maintenance of a national standard. The CAA at section 110((a)(2)((C) requires regulation of the modification or construction of any stationary source within the area *as necessary* (emphasis added) to assure that the standards are achieved. As such, the CAA at section 110((a)(2)(C) and the minor NSR SIP rules found at 40 CFR 51.160–165, as well as case law,[23] allow exemptions from a minor NSR permitting program. In cases such as this, where the minor NSR SIP is being revised, the state must also demonstrate that the revisions meet the requirements of CAA section 110(l). Similar to the provisions of the Act and rules discussed above, section 110(l) requires that EPA cannot approve revisions to the Arkansas minor NSR SIP unless EPA finds that the changes would not interfere with any applicable requirement concerning attainment and reasonable further progress, as well as any other applicable statutory requirement. The clear reading of the Act and the EPA rules are that EPA can approve exemptions to the Arkansas minor NSR SIP program as long as it finds these exemptions will not interfere with attainment or maintenance of a NAAQS or other control strategy. Consistent with what is allowed, Arkansas has identified revised permitting thresholds and *de minimis* change levels to serve as the exemption thresholds for their minor NSR permitting program. To support the revised exemption thresholds, Arkansas provided analyses to define the scope of the exemptions and to demonstrate that these revised thresholds will not adversely impact NAAQS maintenance or attainment. The analyses, which were submitted as part of the March 24, 2017 SIP revision submittal, included: (1) An emissions inventory analysis that determined the percentage of the statewide total emissions inventory that would be newly exempt by the revised thresholds; (2) a monitoring analysis that included a review of the current status of ambient air quality in the state along with a review of the trends in monitoring data since the state adopted and implemented the revised thresholds; and (3) a modeling analysis that examined the impacts of the exempt emissions on ambient concentrations. The analyses provided by Arkansas in the SIP revision submittals show that the minor NSR permitting exemptions resulting from the revised rule were limited in scope and comprised much less than 1% of the total emissions in the statewide emissions inventory and that the impacts from the newly exempt emissions would not adversely impact NAAQS maintenance or attainment, as part of their 110(l) demonstration. The EPA's review of these analyses and our finding that the proposed SIP revisions were approvable were detailed in the proposed rulemaking and the Technical Support Document accompanying the rulemaking.

Comment: The commenter stated that the results from the state's AERMOD (dispersion) modeling show that the exemptions are not ''*de minimis.*'' The commenter also states that the EPA must not approve the revised program because it will interfere with the requirements that SIPs include programs to ensure that new and modified sources not be allowed to construct or modify if they would interfere with attainment or maintenance of the NAAQS.

Response: Our proposed rulemaking specifically addressed the scope of the exemptions resulting from the revised minor NSR permitting thresholds and *de minimis* levels. As discussed in our proposal, Arkansas provided an analysis to quantify the amount of emissions that would be expected to be exempt from minor NSR permitting requirements relative to total emissions from the statewide emissions inventories. For all pollutants, the exempt emissions for both the permitting thresholds and *de minimis* levels made up a fraction of 1% of the statewide emissions. Therefore, we find that the scope of emissions expected to be exempt from minor NSR permitting as a result of the revised minor NSR program thresholds and *de minimis* change levels is extremely limited. Regarding the commenter's claim that the revised program will interfere with NAAQS attainment or maintenance, the 110(l) demonstration submitted by Arkansas in support of the proposed revisions to the SIP specifically addressed the anticipated impacts on the NAAQS through both a review of the current status of ambient air quality in Arkansas and an evaluation the impacts of the revised thresholds on ambient air quality via air monitoring and air modeling data. As discussed in our proposed rulemaking, based on the ambient monitoring trend analysis, the implementation of the revised minor NSR permitting thresholds and *de minimis* levels following state adoption of the revisions in 2008 and ongoing implementation have not negatively impacted ambient air quality or interfered with the attainment of the NAAQS. In fact, for several pollutants the ambient air quality has shown continued improvements via decreases in monitored DVs during this period; and currently Arkansas does not have any areas classified as nonattainment for any NAAQS. Our proposal also summarized the air quality modeling results that Arkansas submitted as part of the SIP revisions. The modeling analysis included an evaluation of both statewide regional-scale (photochemical) and local-scale impacts. (See the March 24, 2017 SIP Revision Submittal, Appendix D—Air Quality Modeling Analysis of Minor Source Permit Thresholds.) The photochemical modeling was designed to specifically examine ozone and $PM_{2.5}$, the model also simulates NO_2, SO_2, and PM_{10} so the results for those pollutants were also examined. The maximum photochemical modeling derived impacts including the hypothetical source emissions on daily maximum 8-hr ozone, 24-hr $PM_{2.5}$, and annual average $PM_{2.5}$ for any location in Arkansas was calculated. The maximum impacts including hypothetical source emissions on daily maximum 1-hr NO_2 and SO_2 and 24-hr average PM_{10} was also calculated. These maximum impacts were added to the baseline modeled predicted concentrations for each day and grid cell for the future year simulation. The resultant model predicted concentrations represented the future year concentrations assuming the worst-case impacts from the threshold emission increases at any location within the modeling grid. These model results were used in conjunction with the baseline modeling results to calculate the RRFs necessary to estimate FDVs. The FDVs were used to examine whether emission increases less than or equal to the revised thresholds will cause or contribute to a NAAQS violation or interfere with NAAQS maintenance. To further examine the potential near-field impacts

[23] Alabama Power Company, *et al.,* Petitioners,* v. Douglas M. Costle, As Administrator, Environmental Protection Agency, *et al.,* Respondents,* Sierra Club, *et al.,* Intervenors.*, 636 F.2d 323 (D.C. Cir. 1980).

from new or existing sources with emission increases less than or equal to the revised permitting and *de minimis* change thresholds, a dispersion modeling analysis was conducted. The dispersion model was applied for the same hypothetical sources used in the photochemical modeling with emissions set to the revised thresholds. The dispersion model was applied for one year for NO_X, SO_2, CO, and PM_{10}. For each source location, daily concentrations (for the receptor with the maximum annual average value) taken from the dispersion modeling were added to the photochemical model -derived concentrations for that same location. In this manner, the photochemical modeling values were used as ''background''. The statewide daily maximum impact (maximum over all locations/AQCRs) obtained were expected to represent the near-field future-year concentrations assuming worst-case impacts from threshold emission increases at a range of locations throughout the state. Similar to the photochemical modeling, these maximum impacts were added to the baseline modeled predicted concentrations for each day and grid cell for the future year simulation. The resultant model predicted concentrations represented the future year concentrations assuming the worst-case impacts from the threshold emission increases at any location within the modeling grid. The resultant concentrations were used in conjunction with the baseline modeling results to calculate the RRFs necessary to estimate FDVs. Once again, the FDVs were used to examine if the emissions under the revised threshold values would cause/contribute to a NAAQS violation and/or interfere with NAAQS attainment. Both the photochemical and dispersion modeling results did show that the addition of exempt emissions via modeled hypothetical sources may result in some increases in ambient concentrations. However, as discussed in the TSD accompanying our proposed rulemaking, the FDVs calculated as part of the regional-scale modeling analysis that were based on the maximum modeled impacts from the hypothetical source were less than the NAAQS for each pollutant and averaging period.[24] Similarly, the results from the near-field dispersion modeling also showed the modeled impacts from the hypothetical sources combined with background concentrations were all less than their corresponding NAAQS.[25] Based on our evaluation of these analyses conducted by ADEQ to support the revised minor NSR permitting thresholds and *de minimis* levels, we find that the increased levels will not interfere with attainment or maintenance of the NAAQS.

Comment: The commenter stated that EPA does not cite to the specific rule that states that ''*de minimis* changes are still required to meet minor NSR requirements contained in Reg. 19, Chapter 4 including a demonstration that the proposed modification will not interfere with the NAAQS on a case-by-case basis'' and that the EPA's claim that this requirement remains is without merit. The commenter stated that EPA may be assuming that Reg. 19.402 applies since a permit revision is implied by Reg. 19.407(C)(6), it is not clear that this requirement applies to what appears to be an administrative amendment to a source's permit if it makes a *de minimis* change. The commenter also states that ADEQ made it clear that it does not plan to require or base any decision for *de minimis* changes on air quality modeling, and without conducting modeling, they will not be able to ensure that the proposed modification will not interfere with attainment or maintenance of a NAAQS on a case-by-case basis. So, the commenter stated that it is unlikely that ADEQ considered Reg. 19.402 as applying to *de minimis* permit changes.

Response: We do not agree that our proposed rulemaking did not include a citation to the specific rule related to a case-by-case demonstration of non-interference with the NAAQS that is applicable to *de minimis* changes. We also do not agree that our statement that *de minimis* changes must still meet minor NSR requirements is without merit. Our position that *de minimis* changes must include a demonstration that the proposed modification will not interfere with the NAAQS on a case-by-case basis is based on the applicability of Reg. 19.405(A)(1) to these changes. Further, the provisions in the *de minimis* change rule indicate that *de minimis* changes include an application submittal/review process at Reg. 19.407(C)(5) at it references applications for *de minimis* changes. In addition to the rule language, the current ''Air Application Instructions for Registrations, Minor Source Permits, or Title V Permits'' made available on ADEQ's air permitting website indicate that the forms are to be used for *de minimis* changes.[26] As such, we do not agree with the commenter that EPA assuming the *de minimis* changes include an application process without a basis. Further we do not agree with the commenter, that our proposed rulemaking did not clearly state the specific rule regarding the referenced technical review requirement to demonstrate NAAQS compliance for a *de minimis* change. In our proposed rulemaking, we specifically stated that the requirement found at Reg. 19.405(A)(1) requires ADEQ must ensure as part of their technical review of *de minimis* change applications that the source will be modified to operate without interfering with NAAQS attainment or maintenance.[27] The *de minimis* change rule found at Reg. 19.407(C)(2) of the current Arkansas SIP exempts qualified proposed changes at an existing source from minor NSR permitting requirements, including public notice. The exemption only exempts the *de minimis* change from minor NSR permitting requirements and not all applicable minor NSR requirements. Therefore, the exemption does not exempt the change from the technical review requirements found at Reg. 19.405(A). Reg. 19.405(A) applies to the review of applications submitted under Chapter 4 of Reg. 19, where the *de minimis* change rule is located, and requires that on an application-by-application basis ADEQ must ensure as part of their technical review that the source will be modified to operate without interfering with NAAQS attainment or maintenance. Our approval of the *de minimis* change level revisions does not revise or in any way change the applicability of the SIP-approved technical review requirements found in Reg. 19.405(A), or any other applicable minor NSR requirements, to *de minimis* changes. It is important to note that the Reg. 19.405(A) technical review requirements do not specify that modeling be completed to demonstrate that the source will be constructed/modified without interfering with attainment or maintenance of the NAAQS. The EPA minor NSR SIP rules found in 40 CFR 51.160–165 do not

[24] For more detailed discussion regarding the regional-scale photochemical modeling results see Pages 29–31 of EPA's Technical Support Document dated August 24, 2017, available in the electronic docket for this rulemaking.

[25] For more detailed discussion regarding the near-field dispersion modeling results see Pages 31–32 of the EPA's Technical Support Document dated August 24, 2017, including Table V.5 which contains the maximum and average AERMOD concentrations both with and without the CMAQ-derived background concentrations that were determined in ADEQ's nearfield hypothetical source analysis.

[26] Air Application Instructions available online at: *https://www.adeq.state.ar.us/downloads/WebDatabases/Air/PermitData/Forms%20and%20Instructions/Form%20and%20Instructions/Air_Permit_Application_Forms_Instructions.pdf.*

[27] See 82 FR 43508.

require modeling either. We do not agree with the commenter that without conducting modeling, ADEQ cannot ensure that a *de minimis* change will not interfere with attainment or maintenance of a NAAQS on a case-by-case basis. Case-by-case modeling, such as air dispersion modeling, is one of the methods that is commonly used to meet NAAQS requirements, but it is not the only method. Depending on the source and the proposed *de minimis* change, as part of their technical review ADEQ could alternatively utilize past modeling analyses, such as the statewide modeling that was included as part of the 110(l) demonstration in the March 24, 2017 SIP revision submittal, or existing ambient monitoring data or emissions inventory data relevant to the proposed change to make a determination regarding NAAQS compliance. In addition, the SIP-approved provision found at Reg. 19.407(C)(1)(b) specifies that ''a proposed change to a facility will be considered *De Minimis* if: . . . the change will result in a trivial environmental impact.'' Our rulemaking does not revise or in any way change this provision.

Comment: The commenter stated that EPA has not evaluated whether the SIP revision satisfies CAA section 193. They state that because the revisions allow ADEQ to relax emission limits via *de minimis* changes and for previously permitting sources to terminate the existing permit and replace with a registration, EPA's review should include an evaluation pursuant to CAA section 193 of whether these relaxations would allow for the relaxation of any control requirements in effect before November 15, 1990, in any nonattainment area, in which case equivalent or greater emissions reductions.

Response: We do not agree with the commenter that this rulemaking is subject to CAA section 193. Section 193 applies to nonattainment areas only and provides that ''[n]o control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in area for any air pollutant may be modified after such enactment in any manner unless the modifications insures equivalent or greater emission reductions of such air pollutant.'' The proposed rule does not change control requirements in nonattainment areas, of which Arkansas currently has none. Therefore, EPA did not address section 193 in the proposed approval action, since it does not apply. In the future, should an area become designated as nonattainment, Arkansas when developing the required nonattainment NSR permitting program would have to ensure that this program applied the Act's thresholds, which might require Arkansas to revise its minor NSR SIP program.

III. Final Action

In this action, EPA is approving revisions to the minor NSR permitting program as submitted as revisions to the Arkansas SIP on July 26, 2010, and March 24, 2017, including supplemental information submitted on November 30, 2015, May 26, 2016, July 5, 2017, July 27, 2017, and March 16, 2018. Our approval includes the following revisions to the Arkansas SIP:

- Revisions to Reg. 19.401 (submitted 07/26/2010 and 03/24/2017);
- Revisions to Reg. 19.407(C)(2)(a) and (b) (submitted 07/26/2010 and 03/24/2017); and
- Revisions to Reg. 19.417(A) and (B) (submitted 07/26/2010).

As previously stated in our proposed rulemaking, this final action does not remove or modify the existing federal and state requirements that each NSR permit action issued by ADEQ include an analysis completed by the Department and their determination that the proposed construction or modification authorized by the permit action will not interfere with attainment or maintenance of a national ambient air quality standard.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Arkansas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Ashley Mohr for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 28, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 20, 2018.

Anne Idsal,

Regional Administrator, Region 6.

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 E—Arkansas

■ 2. In § 52.170(c), the table titled ''EPA-Approved Regulations in the Arkansas SIP'' is amended by:

■ a. Revising entries for Reg. 19.401 and Reg. 19.407; and

■ b. Adding an entry for Reg. 19.417 immediately following the entry for Reg. 19.413.

The amendments read as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
*	*	*	*	* * *
Chapter 4: Minor Source Review				
Reg. 19.401	General Applicability	03/24/17	6/29/2018, [Insert **Federal Register** citation].	Includes supplemental information provided on 11/30/2015, 05/26/2016, 07/05/2017, and 03/16/2018.
*	*	*	*	* * *
Reg. 19.407	Permit Amendments	03/24/17	6/29/2018, [Insert **Federal Register** citation].	Includes supplemental information provided on 11/30/2015, 05/26/2016, 07/05/2017, 07/27/2017, and 03/16/2018.
*	*	*	*	* * *
Reg. 19.417	Registration	07/26/10	6/29/2018, [Insert **Federal Register** citation].	Includes supplemental information provided on 11/30/2015, 05/26/2016, 07/05/2017, and 03/16/2018.
*	*	*	*	* * *

* * * * *

[FR Doc. 2018–13942 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0100; EPA–R05–OAR–2017–0501; FRL–9980–08—Region 5]

Air Plan Approval; Michigan; Revisions to Volatile Organic Compound Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revised rules submitted by the State of Michigan as State Implementation Plan (SIP) revisions. The main revision specifies volatile organic compound (VOC) limits for cutback and emulsified asphalts as well as the test methods for determining the VOC content of these products. Michigan also moved the adoption by reference citations from Part 6. Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Emissions to Part 9. Emission Limitations and Prohibitions—Miscellaneous and updated references to federal test methods in several of its Part 6 rules.

DATES: This final rule is effective on July 30, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2017–0100 and EPA–R05–OAR–2017–0501. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052, *rosenthal.steven@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. Background

Michigan revised its rule R 336.1618 ''Use of cutback or emulsified paving asphalt'' along with several other of its VOC rules. Michigan also revised rules R 336.1611 to R 336.1614, R 336.1619, R 336.1622, R 336.1625, R336.1627 to R 336.1629, R 336.1632, R 336.1651, R 336.1660, and R 336.1661 for the purpose of removing adoptions by reference which have been moved to and consolidated in R 336.1902 ''Adoption of standards by reference.'' Revisions to R 336.1622, R 336.1627 to R 336.1629, and R 336.1632 update references to federal test methods.

On March 30, 2018 (83 FR 13710) EPA published a notice of proposed rulemaking (NPR) proposing approval of Michigan's VOC revisions. The specific details of Michigan's VOC revisions and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA received no relevant comments on this proposal.

II. What action is EPA taking?

EPA is approving Michigan's VOC revisions in Part 6 and Part 9 because they satisfy the EPA's requirement of reasonably available control technology.

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 the Michigan Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the For **FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

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 Clean Air 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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

[1] 62 FR 27968 (May 22, 1997).

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 28, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 18, 2018.

Cathy Stepp,

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. In § 52.1170 amend the table in paragraph (c) by:

■ a. Revising the entries under the heading ''Part 6: Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions'', for rules ''R 336.1611'', ''R 336.1612'', ''R 336.1613'', ''R 336.1614'', ''R 336.1618'', ''R 336.1619'', ''R 336.1622'', ''R 336.1625'', ''R336.1627'', ''R 336.1628'', ''R 336.1629'', ''R 336.1632'', ''R 336.1651'', ''R 336.1660'', and ''R 336.1661'';

■ b. Adding an entry under the heading ''Part 9: Emission Limitations and Prohibitions—Miscellaneous'' for rule ''R 336.1902'' in numerical order.

The addition and revisions read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 6: Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions				
*	*	*	*	*
R 336.1611	Existing cold cleaners	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1612	Existing open top vapor degreasers.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1613	Existing conveyorized cold cleaners.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1614	Existing conveyorized vapor degreasers.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
*	*	*	*	*
R 336.1618	Use of cutback or emulsified paving asphalt.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1619	Standards for perchloroethylene dry cleaning equipment.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
*	*	*	*	*
R 336.1622	Emission of volatile organic compounds from existing components of petroleum refineries; refinery monitoring program.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	

EPA-APPROVED MICHIGAN REGULATIONS—Continued

Michigan citation	Title	State effective date	EPA approval date	Comments
*	* *	*	* *	* *
R 336.1625	Emission of volatile organic compound from existing equipment utilized in manufacturing synthesized pharmaceutical products.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1627	Delivery vessels; vapor collection systems.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1628	Emission of volatile organic compounds from components of existing process equipment used in manufacturing synthetic organic chemicals and polymers; monitoring program.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1629	Emission of volatile organic compounds from components of existing process equipment used in processing natural gas; monitoring program.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
*	* *	*	* *	* *
R 336.1632	Emission of volatile organic compounds from existing automobile, truck, and business machine plastic part coating lines.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1651	Standards for degreasers	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1660	Standards for volatile organic compounds emissions from consumer products.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
R 336.1661	Definitions for consumer products.	3/29/2017	6/29/2018, [Insert **Federal Register** citation].	
*	* *	*	* *	* *
Part 9: Emission Limitations and Prohibitions—Miscellaneous				
R 336.1902	Adoption of Standards by reference.	12/20/2016	6/29/2018, [Insert **Federal Register** citation].	Only sections (1)(a), (b)(i), (b)(iii), (b)(iv), (b)(vii), (b)(viii), (c), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), and (s); (2)(b), (e), and (g); (3)(a); (4)(a), (b), (c), (d), (e), (f), (l), (m),(o), and (p); (5); (8); and (9).
*	* *	*	* *	* *

* * * * *

[FR Doc. 2018–13953 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

Control of Emissions From New and In-Use Highway Vehicles and Engines

CFR Correction

■ In Title 40 of the Code of Federal Regulations, Parts 82 to 86, revised as of July 1, 2017, on page 1134, following paragraph (b) of § 86.1917, the section heading of § 86.1920 is inserted to read as follows:

§ 86.1920 What in-use testing information must I report to EPA?

* * * * *

[FR Doc. 2018–14145 Filed 6–28–18; 8:45 am]

BILLING CODE 1301–00–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 17–310; FCC 18–82]

Promoting Telehealth in Rural America

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (the Commission or FCC) addresses the current funding shortfall in the Rural Health Care (RHC) Program, including by raising the annual Program funding cap and applying it to the current

funding year to fully fund eligible funding requests for funding year (FY) 2017, adjusting the funding cap to reflect inflation, and establishing a process to carry-forward unused funds from past funding years for use in future funding years.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Drogula, *elizabeth.drogula@fcc.gov,* Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–1591 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in WC Docket No. 17–310; FCC 18–82, adopted on June 19, 2018, and released on June 25, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554, or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-18-82A1.pdf.*

I. Introduction

1. Technology and telemedicine have assumed an increasingly important role in health care delivery, particularly in rural and remote areas of the country. For Americans living in rural and isolated areas, doctor shortages and hospital closures are endemic, and obtaining access to high-quality health care is a constant challenge. Broadband greatly changes that equation, however, by enabling a wide range of telemedicine services—from specialists providing consultations via video conferencing to radiologists remotely reading X-rays via high-speed connectivity. Today, the Commission takes steps to help ensure that health care providers participating in the Commission's RHC Program can continue providing these and other essential telemedicine services to their communities.

2. In 1996, Congress recognized the value of providing rural health care providers with ''an affordable rate for the services necessary for the provision of telemedicine,'' and the Commission established the RHC Program the following year. At that time, the Commission capped RHC Program funding at $400 million annually, and for many years, the $400 million funding cap was sufficient to fulfill Program demand. More recently, however, funding requests for high-speed broadband from health care providers have outpaced the RHC Program funding cap, placing a strain on the Program's ability to increase access to broadband for health care providers, particularly in rural areas, and foster the deployment of broadband health care networks. Further, rural health care providers face imminent financial hardship in FY 2017 due to the significant, automatic proration of their funding requests pursuant to RHC Program rules. These funding reductions have forced providers to assume additional costs of providing critical health care services to their communities.

3. Given rural health care providers' urgent need for funding, the Commission takes immediate action in the R&O to address the current funding shortfall in the RHC Program, including by raising the annual Program funding cap to $571 million and applying it to the current funding year to fully fund eligible funding requests for FY 2017. The Commission takes this action consistent with the goals of ensuring that rural health care providers are able to get the funding they need from the RHC Program. At the same time, the Commission is mindful of the need to guard against Program waste, fraud, and abuse to ensure that this funding is being spent appropriately. The Commission remains committed to this goal and for that reason, have proposed and sought comment in this proceeding on measures to ensure compliance and to reduce waste, fraud, and abuse in the RHC Program.

II. Discussion

4. In the R&O, the Commission adopts measures to address the increased demand for funding from the RHC Program and thereby promote health care delivery and telemedicine in rural America. Specifically, the Commission (1) increases the annual RHC Program funding cap to $571 million and apply it to FY 2017; (2) decides to annually adjust the RHC Program funding cap to reflect inflation, beginning with FY 2018; and (3) establishes a process to carry-forward unused funds from past funding years for use in future funding years. These actions will provide rural health care providers with a sufficient and more predictable source of universal service funding to deliver vital telemedicine services to their communities.

A. Raising the RHC Program Funding Cap

5. *Background.* In the *2017 NPRM and Order (FCC 17–164),* the Commission sought comment on whether to increase the RHC Program's $400 million annual funding cap and how to determine the appropriate funding cap level. The Commission explained that one metric would be to consider what the cap would have been if adjusted by inflation since its adoption. It therefore sought comment on whether to establish a new RHC Program funding cap based on the expected level had the Commission initiated an annual inflation adjustment in 1997 using the gross domestic product chain-type price index (GDP–CPI). The Commission also sought comment on whether to apply any increased funding cap to FY 2017.

6. The majority of commenters agree that the Commission should raise the RHC Program funding cap. Of those commenters, most argue that setting the cap at $571 million, the level it would be had the Program been indexed for inflation since its inception, is a sufficient and appropriate metric for establishing a new funding cap today. Some commenters instead argue that the cap should be raised beyond $571 million to account for the expansion of eligible services and entities since the Program's inception, as well as advances in telehealth capabilities and technologies, and increased broadband requirements. Other commenters contend that the GDP–CPI index does not sufficiently represent Program demand because the costs of providing health care services have historically outpaced inflation, or they assert that the funding cap should simply be doubled to $800 million to account for inflation, the increased number of eligible entities, and advances in technology.

7. Additionally, some parties assert that the Commission's analysis in setting the original cap of $400 million was arbitrary or based on incorrect estimates of the number of qualifying rural health care providers. Despite this, these commenters advocate raising the annual funding cap based on the broadband communications requirements for health care providers, the increased demand for the services that such broadband can support, other potential sources of funding of rural health care broadband needs, or indexing the $400 million cap to GDP–CPI.

8. *Discussion.* The Commission concludes that raising the RHC Program funding cap is necessary to address current and future demand for supported services by health care providers. Raising the funding cap to $571 million responds to the significant increase in RHC Program demand resulting from the expansion of eligible services and entities since the Program's creation, as well as the advances in technology that often require higher bandwidth (*e.g.,* higher-speed bandwidth, less latency, and diverse

routing) than was contemplated by the Commission when it established a $400 million cap for the Program in 1997. The Commission also finds that increasing the funding cap to what it would have been if indexed annually for inflation since the inception of the Program, using the GDP–CPI index, ensures that RHC Program funding is sufficient to meet current demand, while also minimizing the increased costs of funding, which are imposed on USF contributors and generally passed on to consumers. In addition, adjusting the funding cap to account for inflation over the past 20 years maintains the purchasing power in today's dollars that health care providers held when the RHC Program was first instituted. On these bases, the Commission raises the RHC Program annual funding cap from $400 million to $571 million.

9. The Commission disagrees with those commenters who advocate doubling the RHC Program funding cap to $800 million at this time. The $171 million increase in the annual funding cap exceeds the current demand of $521 million, and commenters fail to provide reliable data justifying a $400 million increase. Moreover, the Commission believes that adopting such a substantial increase at this time is especially imprudent given the concerns in this proceeding about whether potential waste in the RHC Telecommunications Program has contributed to reaching the cap sooner than anticipated and what steps the Commission should take to reduce such waste.

10. Accordingly, the Commission concludes that increasing the cap to $571 million strikes the appropriate balance between ensuring adequate funding for vital telehealth services while minimizing the burden placed on USF contributors and consumers. As necessary, the Commission will assess the need for any future increases in the cap to ensure that the RHC Program is sufficiently funded to achieve the Program's goals of increasing access to broadband for health care providers, particularly in rural areas, and fostering the deployment of broadband health care networks. For these reasons, the Commission is not persuaded by the arguments submitted by SHLB, ACS, and others that raising the cap to $571 million is insufficient to address RHC Program demand. By raising the cap by $171 million and taking the other steps discussed in this R&O (*i.e.,* indexing the cap to reflect inflation and adopting a carry-forward process for unused funding), the Commission is addressing the substantial increase in RHC Program demand.

11. The Commission is also unpersuaded by AT&T's arguments that until the Telecommunications Program is fundamentally reformed, it is premature to consider increasing the annual RHC Program funding cap. In light of the current funding shortfall in the RHC Program, the Commission believes that raising the funding cap to $571 million now is necessary to ensure that sufficient funding is available for eligible health care providers to maintain their current network connections and telehealth services, and to provide additional certainty as health care providers consider their future bandwidth needs. The Commission does, however, agree with AT&T and other commenters that managing waste, fraud, and abuse in the RHC Program is essential to ensuring efficient Program disbursements, and that the Commission should consider additional measures to ensure Program compliance. For that very reason, the *2017 NPRM and Order* proposed and sought comment on measures to control outlier costs and reform support calculations in the Telecommunications Program, improve competitive bidding, and establish more effective oversight of the RHC Program.

12. In addition to raising the annual RHC Program funding cap, the Commission addresses the immediate needs of participating health care providers by applying the increased cap to the current funding year (FY 2017). Given the significant financial hardship faced by rural health care providers due to the scarcity of Program funding and the substantial proration of FY 2017 funding requests, it is incumbent on the Commission to make available the additional funding in this funding year. This decision will eliminate the need to prorate the amount of qualified FY 2017 funding requests and relieve rural health care providers of burdensome service cost increases resulting from the required proration.

13. None of the commenters who support raising the annual funding cap oppose applying the funding cap to FY 2017. In the *2017 NPRM and Order,* the Commission sought comment on whether to raise the funding cap, and whether the funding cap should be increased for FY 2017 to address the financial distress that can result from the proration of funding requests. The Commission anticipated that demand would exceed the funding cap in FY 2017, potentially at a level requiring a deeper proration than required in FY 2016, and recognized that the ''proration that comes with capped funding may be especially hard on small, rural healthcare providers with limited budgets. . . .'' USAC has since announced and applied a significant proration factor for FY 2017, and the hardship anticipated by the Commission has been reflected in petitions for relief and correspondence filed in the RHC Program dockets. The Commission concludes that the public health consequences that could result from rural health care providers receiving reduced funding as a result of the proration of their funding requests in FY 2017 weighs in favor of increasing the FY 2017 RHC Program cap to the $571 million level as adopted by this R&O.

14. By taking this action, the Commission makes significant funding available to issue commitments for the full amount approved for FY 2017 funding requests prior to proration. The Commission directs USAC to collect the additional funds needed to fully fund FY 2017 demand over the next two quarters in accordance with the standard process for calculating and announcing the quarterly contribution factor to reduce the impact on ratepayers. The Commission further directs USAC to take any other steps necessary to reverse the proration of approved FY 2017 funding requests, consistent with this R&O.

B. Instituting an Annual Inflation Adjustment

15. *Background.* In addition to whether and how to raise the RHC Program annual funding cap, in the *2017 NPRM and Order, the Commission* sought comment on whether the cap should be adjusted annually for inflation. The Commission noted that other universal service support mechanisms use the GDP–CPI inflation index to adjust funding caps, and inquired whether the RHC Program cap should also be adjusted annually on the same basis. Commenters that support raising the RHC Program funding cap to the level that it would be had it been indexed for inflation using GDP–CPI since the inception of the Program also support adjusting the cap for inflation in future funding years.

16. *Discussion.* The Commission adopts a rule that, beginning in FY 2018, the RHC Program funding cap will be adjusted annually for inflation using the GDP–CPI inflation index. By itself, raising the cap does not create the flexibility necessary to ensure that rural health care providers have affordable access to telecommunications and broadband services in the event of future price inflation. Accordingly, the Commission must also institute an annual inflation adjustment to ensure that the RHC Program maintains consistent purchasing power without

unreasonably increasing the size of the USF and increasing the USF contribution charges that are ultimately passed through to consumers.

17. The Commission concludes that it is appropriate to rely upon the GDP–CPI index for the RHC Program's inflation adjustment. There is no index that specifically examines the cost of services funded under the RHC Program. Given that GDP–CPI is the same index the Commission uses to inflation-adjust the E-Rate Program cap, the high-cost loop support mechanism cap, and in other contexts to estimate inflation of carrier costs, the Commission concludes that it is reasonable to use the GDP–CPI to approximate the impact of inflation on RHC Program supported services. In the event of periods of deflation, the Commission will maintain the prior-year cap to maintain predictability.

18. To compute the annual inflation adjustment, the percentage increase in the GDP–CPI from the previous year will be used. The increase shall be rounded to the nearest 0.1 percent. The increase in the inflation index will then be used to calculate the maximum amount of funding for the next RHC Program funding year which runs from July 1 to June 30. When the calculation of the yearly average GDP–CPI is determined, the Wireline Competition Bureau (Bureau) will publish a Public Notice in the **Federal Register** within 60 days announcing any increase in the annual funding cap based on the rate of inflation. For FY 2018, based on GDP–CPI, the RHC Program funding cap will be $581 million.

C. Adopting a Carry-Forward Process for the RHC Program

19. *Background.* In the *2017 NPRM and Order,* the Commission sought comment on whether to allow unused funds committed in one funding year to be carried forward to a subsequent funding year. In fact, in the accompanying *Order* (FCC 17–164), the Commission directed that unused funds from prior years be carried forward to reduce the effect of proration for certain health care providers in FY 2017. All those who commented on this issue supported the proposal that unused funds be carried forward for use in subsequent years.

20. *Discussion.* The Commission finds that, beginning in FY 2018, unused funds may be carried forward from previous years for use in subsequent funding years. Unused funds are the difference between the amount of funds collected, or made available for that particular funding year, and the amount of funds disbursed or to be disbursed for that funding year. Funds carried forward from one funding year may be rolled over to multiple funding years until ultimately committed and disbursed. Considering the high demand for RHC Program funding, the Commission concludes that this action is consistent with the goals of the RHC Program, aligns the RHC Program with the E-Rate Program's carry-forward process, and is in the public interest.

21. Additionally, as in the E-Rate Program, the Commission will require USAC to provide quarterly estimates to the Commission regarding the amount of unused funds that will be available for carryover in subsequent years. This requirement codifies USAC's existing reporting practice and reporting cycle. The quarterly estimate will also provide stakeholders of the RHC Program with general notice regarding the estimated amount of unused funds that may be made available in the subsequent year.

22. Further, the Commission will make unused funds available annually in the second quarter of each calendar year for use in the next full funding year of the RHC Program. Based on the estimates provided by USAC, the Commission will announce a specific amount of unused funds from prior funding years to be carried forward to increase available funding for future funding years. This unused funding may be used to commit to eligible services in excess of the annual funding cap in the event demand in a given year exceeds the cap, or it may be used to reduce collections for the RHC Program in a year when demand is less than the cap. The Bureau will announce the availability and amount of carryover funds during the second quarter of the calendar year.

23. Finally, the Commission finds it is in the public interest to carry forward unused funds for disbursement on an annual basis. Distribution of unused funds on an annual basis allows USAC to refine its calculation of available funds over four reporting quarters as the funding year progresses. The Commission also believes that the timing of this process provides certainty regarding when unused funds will be carried forward for use in the RHC Program with minimal disruption to the administration of the Program.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

24. This document contains no new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), it previously sought specific comments on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which includes most business with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (FRFA).

B. Congressional Review Act

25. The Commission will send a copy of the R&O to Congress and the Government Accountability Office, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Regulatory Flexibility Act

26. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the R&O on small entities. The Commission will send a copy of the R&O, including the FRFA below, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the R&O, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the R&O and FRFA (or summaries thereof) will also be published in the **Federal Register**.

D. Final Regulatory Flexibility Analysis

27. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules was incorporated into the 2017 Notice of Proposed Rulemaking. Written comments were requested on this IRFA. This present FRFA conforms to the RFA.

1. Need for, and Objectives of, the Report and Order

28. Through the R&O, the Commission seeks to improve the Rural Health Care (RHC) Program's capacity to distribute telecommunications and broadband support to health care providers—especially small, rural

health care providers—in the most equitable, effective, efficient, clear, and predictable manner as possible. Telemedicine has become an increasingly vital component of health care delivery to rural Americans and, in Funding Year (FY) 2016, for the first time in the RHC Program's twenty-year history, and then again in FY 2017, demand for support exceeded the $400 million annual cap which necessitated reduced, *pro rata* distribution of support. In light of the significance and scarcity of RHC Program support, the Commission adopts several measures to most effectively meet health care providers' needs while responsibly stewarding the RHC Program's limited funds. Specifically, the Commission adopts rules that: (1) Raise the annual RHC Program funding cap to $571 million to apply to FY 2017; (2) adjust the annual RHC Program funding cap for inflation; and (3) establish a mechanism to carry-forward unused funds from past funding years for use in future funding years.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

29. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

3. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

30. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

4. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

31. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

32. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the RFA, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States, which translates to 28.8 million businesses.

33. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

34. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

35. Small entities potentially affected by the reforms adopted herein include eligible non-profit and public health care providers and the eligible service providers offering them services, including telecommunications service providers, Internet Service Providers (ISPs), and vendors of the services and equipment used for dedicated broadband networks.

a. Health Care Providers

36. *Offices of Physicians (except Mental Health Specialists).* This U.S. industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of general or specialized medicine (except psychiatry or psychoanalysis) or surgery. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or health maintenance organization (HMO) medical centers. The SBA has created a size standard for this industry, which is annual receipts of $11 million or less. According to 2012 U.S. Economic Census, 152,468 firms operated throughout the entire year in this industry. Of that number, 147,718 had annual receipts of less than $10 million, while 3,108 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms operating in this industry are small under the applicable size standard.

37. *Offices of Physicians, Mental Health Specialists.* The U.S. industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of psychiatry or psychoanalysis. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of $11 million dollars or less. The U.S. Economic Census indicates that 8,809 firms operated throughout the entire year in this industry. Of that number 8,791 had annual receipts of less than $10 million, while 13 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small under the applicable standard.

38. *Offices of Dentists.* This U.S. industry comprises establishments of health practitioners having the degree of D.M.D. (Doctor of Dental Medicine), D.D.S. (Doctor of Dental Surgery), or D.D.S. (Doctor of Dental Science) primarily engaged in the independent practice of general or specialized dentistry or dental surgery. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. They can provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry. The SBA has established a size standard

for that industry of annual receipts of $7.5 million or less. The 2012 U.S. Economic Census indicates that 115,268 firms operated in the dental industry throughout the entire year. Of that number 114,417 had annual receipts of less than $5 million, while 651 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of business in the dental industry are small under the applicable standard.

39. *Offices of Chiropractors.* This U.S. industry comprises establishments of health practitioners having the degree of D.C. (Doctor of Chiropractic) primarily engaged in the independent practice of chiropractic. These practitioners provide diagnostic and therapeutic treatment of neuromusculoskeletal and related disorders through the manipulation and adjustment of the spinal column and extremities, and operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $7.5 million or less. The 2012 U.S. Economic Census statistics show that in 2012, there were 33,940 firms operated throughout the entire year. Of that number 33,910 operated with annual receipts of less than $5 million per year, while 26 firms had annual receipts between $5 million and $9,999,999. Based on that data, the Commission concludes that a majority of chiropractors are small.

40. *Offices of Optometrists.* This U.S. industry comprises establishments of health practitioners having the degree of O.D. (Doctor of Optometry) primarily engaged in the independent practice of optometry. These practitioners examine, diagnose, treat, and manage diseases and disorders of the visual system, the eye and associated structures as well as diagnose related systemic conditions. Offices of optometrists prescribe and/or provide eyeglasses, contact lenses, low vision aids, and vision therapy. They operate private or group practices in their own offices *(e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers, and may also provide the same services as opticians, such as selling and fitting prescription eyeglasses and contact lenses. The SBA has established a size standard for businesses operating in this industry, which is annual receipts of $7.5 million or less. The 2012 Economic Census indicates that 18,050 firms operated the entire year. Of that number, 17,951 had annual receipts of less than $5 million, while 70 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of optometrists in this industry are small.

41. *Offices of Mental Health Practitioners (except Physicians).* This U.S. industry comprises establishments of independent mental health practitioners (except physicians) primarily engaged in (1) the diagnosis and treatment of mental, emotional, and behavioral disorders and/or (2) the diagnosis and treatment of individual or group social dysfunction brought about by such causes as mental illness, alcohol and substance abuse, physical and emotional trauma, or stress. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has created a size standard for this industry, which is annual receipts of $7.5 million or less. The 2012 U.S. Economic Census indicates that 16,058 firms operated throughout the entire year. Of that number, 15,894 firms received annual receipts of less than $5 million, while 111 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of mental health practitioners who do not employ physicians are small.

42. *Offices of Physical, Occupational and Speech Therapists and Audiologists.* This U.S. industry comprises establishments of independent health practitioners primarily engaged in one of the following: (1) Providing physical therapy services to patients who have impairments, functional limitations, disabilities, or changes in physical functions and health status resulting from injury, disease or other causes, or who require prevention, wellness or fitness services; (2) planning and administering educational, recreational, and social activities designed to help patients or individuals with disabilities, regain physical or mental functioning or to adapt to their disabilities; and (3) diagnosing and treating speech, language, or hearing problems. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $7.5 million or less. The 2012 U.S. Economic Census indicates that 20,567 firms in this industry operated throughout the entire year. Of this number, 20,047 had annual receipts of less than $5 million, while 270 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of businesses in this industry are small.

43. *Offices of Podiatrists.* This U.S. industry comprises establishments of health practitioners having the degree of D.P.M. (Doctor of Podiatric Medicine) primarily engaged in the independent practice of podiatry. These practitioners diagnose and treat diseases and deformities of the foot and operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of $7.5 million or less. The 2012 U.S. Economic Census indicates that 7,569 podiatry firms operated throughout the entire year. Of that number, 7,545 firms had annual receipts of less than $5 million, while 22 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

44. *Offices of All Other Miscellaneous Health Practitioners.* This U.S. industry comprises establishments of independent health practitioners (except physicians; dentists; chiropractors; optometrists; mental health specialists; physical, occupational, and speech therapists; audiologists; and podiatrists). These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $7.5 million or less. The 2012 U.S. Economic Census indicates that 11,460 firms operated throughout the entire year. Of that number, 11,374 firms had annual receipts of less than $5 million, while 48 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that the majority of firms in this industry are small.

45. *Family Planning Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing a range of family planning services on an outpatient basis, such as contraceptive services, genetic and prenatal counseling, voluntary sterilization, and therapeutic and medically induced termination of pregnancy. The SBA has established a size standard for this industry, which is annual receipts of $11 million or less. The 2012 Economic Census indicates that 1,286 firms in this industry

operated throughout the entire year. Of that number 1,237 had annual receipts of less than $10 million, while 36 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that the majority of firms in this industry are small.

46. *Outpatient Mental Health and Substance Abuse Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient services related to the diagnosis and treatment of mental health disorders and alcohol and other substance abuse. These establishments generally treat patients who do not require inpatient treatment. They may provide a counseling staff and information regarding a wide range of mental health and substance abuse issues and/or refer patients to more extensive treatment programs, if necessary. The SBA has established a size standard for this industry, which is $15 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 4,446 firms operated throughout the entire year. Of that number, 4,069 had annual receipts of less than $10 million while 286 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

47. *HMO Medical Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in providing a range of outpatient medical services to the HMO subscribers with a focus generally on primary health care. These establishments are owned by the HMO. Included in this industry are HMO establishments that both provide health care services and underwrite health and medical insurance policies. The SBA has established a size standard for this industry, which is $32.5 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 14 firms in this industry operated throughout the entire year. Of that number, 5 firms had annual receipts of less than $25 million, while 1 firm had annual receipts between $25 million and $99,999,999. Based on this data, the Commission concludes that approximately one-third of the firms in this industry are small.

48. *Freestanding Ambulatory Surgical and Emergency Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in (1) providing surgical services (*e.g.,* orthoscopic and cataract surgery) on an outpatient basis or (2) providing emergency care services (*e.g.,* setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis. Outpatient surgical establishments have specialized facilities, such as operating and recovery rooms, and specialized equipment, such as anesthetic or X-ray equipment. The SBA has established a size standard for this industry, which is annual receipts of $15 million or less. The 2012 U.S. Economic Census indicates that 3,595 firms in this industry operated throughout the entire year. Of that number, 3,222 firms had annual receipts of less than $10 million, while 289 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

49. *All Other Outpatient Care Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing general or specialized outpatient care (except family planning centers, outpatient mental health and substance abuse centers, HMO medical centers, kidney dialysis centers, and freestanding ambulatory surgical and emergency centers). Centers or clinics of health practitioners with different degrees from more than one industry practicing within the same establishment (*i.e.,* Doctor of Medicine and Doctor of Dental Medicine) are included in this industry. The SBA has established a size standard for this industry, which is annual receipts of $20.5 million or less. The 2012 U.S. Economic Census indicates that 4,903 firms operated in this industry throughout the entire year. Of this number, 4,269 firms had annual receipts of less than $10 million, while 389 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

50. *Blood and Organ Banks.* This U.S. industry comprises establishments primarily engaged in collecting, storing, and distributing blood and blood products and storing and distributing body organs. The SBA has established a size standard for this industry, which is annual receipts of $32.5 million or less. The 2012 U.S. Economic Census indicates that 314 firms operated in this industry throughout the entire year. Of that number, 235 operated with annual receipts of less than $25 million, while 41 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that approximately three-quarters of firms that operate in this industry are small.

51. *All Other Miscellaneous Ambulatory Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing ambulatory health care services (except offices of physicians, dentists, and other health practitioners; outpatient care centers; medical and diagnostic laboratories; home health care providers; ambulances; and blood and organ banks). The SBA has established a size standard for this industry, which is annual receipts of $15 million or less. The 2012 U.S. Economic Census indicates that 2,429 firms operated in this industry throughout the entire year. Of that number, 2,318 had annual receipts of less than $10 million, while 56 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of the firms in this industry are small.

52. *Medical Laboratories.* This U.S. industry comprises establishments known as medical laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis, generally to the medical profession or to the patient on referral from a health practitioner. The SBA has established a size standard for this industry, which is annual receipts of $32.5 million or less. The 2012 U.S. Economic Census indicates that 2,599 firms operated in this industry throughout the entire year. Of this number, 2,465 had annual receipts of less than $25 million, while 60 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

53. *Diagnostic Imaging Centers.* This U.S. industry comprises establishments known as diagnostic imaging centers primarily engaged in producing images of the patient generally on referral from a health practitioner. The SBA has established size standard for this industry, which is annual receipts of $15 million or less. The 2012 U.S. Economic Census indicates that 4,209 firms operated in this industry throughout the entire year. Of that number, 3,876 firms had annual receipts of less than $10 million, while 228 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

54. *Home Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing skilled nursing services in the home, along with

a range of the following: Personal care services; homemaker and companion services; physical therapy; medical social services; medications; medical equipment and supplies; counseling; 24-hour home care; occupation and vocational therapy; dietary and nutritional services; speech therapy; audiology; and high-tech care, such as intravenous therapy. The SBA has established a size standard for this industry, which is annual receipts of $15 million or less. The 2012 U.S. Economic Census indicates that 17,770 firms operated in this industry throughout the entire year. Of that number, 16,822 had annual receipts of less than $10 million, while 590 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

55. *Ambulance Services.* This U.S. industry comprises establishments primarily engaged in providing transportation of patients by ground or air, along with medical care. These services are often provided during a medical emergency but are not restricted to emergencies. The vehicles are equipped with lifesaving equipment operated by medically trained personnel. The SBA has established a size standard for this industry, which is annual receipts of $15 million or less. The 2012 U.S. Economic Census indicates that 2,984 firms operated in this industry throughout the entire year. Of that number, 2,926 had annual receipts of less than $15 million, while 133 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

56. *Kidney Dialysis Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient kidney or renal dialysis services. The SBA has established assize standard for this industry, which is annual receipts of $38.5 million or less. The 2012 U.S. Economic Census indicates that 396 firms operated in this industry throughout the entire year. Of that number, 379 had annual receipts of less than $25 million, while 7 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

57. *General Medical and Surgical Hospitals.* This U.S. industry comprises establishments known and licensed as general medical and surgical hospitals primarily engaged in providing diagnostic and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. These hospitals have an organized staff of physicians and other medical staff to provide patient care services. These establishments usually provide other services, such as outpatient services, anatomical pathology services, diagnostic X-ray services, clinical laboratory services, operating room services for a variety of procedures, and pharmacy services. The SBA has established a size standard for this industry, which is annual receipts of $38.5 million or less. The 2012 U.S. Economic Census indicates that 2,800 firms operated in this industry throughout the entire year. Of that number, 877 has annual receipts of less than $25 million, while 400 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that approximately one-quarter of firms in this industry are small.

58. *Psychiatric and Substance Abuse Hospitals.* This U.S. industry comprises establishments known and licensed as psychiatric and substance abuse hospitals primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders. The treatment often requires an extended stay in the hospital. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. Psychiatric, psychological, and social work services are available at the facility. These hospitals usually provide other services, such as outpatient services, clinical laboratory services, diagnostic X-ray services, and electroencephalograph services. The SBA has established a size standard for this industry, which is annual receipts of $38.5 million or less. The 2012 U.S. Economic Census indicates that 404 firms operated in this industry throughout the entire year. Of that number, 185 had annual receipts of less than $25 million, while 107 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that more than one-half of the firms in this industry are small.

59. *Specialty (Except Psychiatric and Substance Abuse) Hospitals.* This U.S. industry consists of establishments known and licensed as specialty hospitals primarily engaged in providing diagnostic, and medical treatment to inpatients with a specific type of disease or medical condition (except psychiatric or substance abuse). Hospitals providing long-term care for the chronically ill and hospitals providing rehabilitation, restorative, and adjustive services to physically challenged or disabled people are included in this industry. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. These hospitals may provide other services, such as outpatient services, diagnostic X-ray services, clinical laboratory services, operating room services, physical therapy services, educational and vocational services, and psychological and social work services. The SBA has established a size standard for this industry, which is annual receipts of $38.5 million or less. The 2012 U.S. Economic Census indicates that 346 firms operated in this industry throughout the entire year. Of that number, 146 firms had annual receipts of less than $25 million, while 79 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission conclude that more than one-half of the firms in this industry are small.

60. *Emergency and Other Relief Services.* This industry comprises establishments primarily engaged in providing food, shelter, clothing, medical relief, resettlement, and counseling to victims of domestic or international disasters or conflicts (*e.g.,* wars). The SBA has established a size standard for this industry, which is annual receipts of $32.5 million or less. The 2012 U.S. Economic Census indicates that 541 firms operated in this industry throughout the entire year. Of that number, 509 had annual receipts of less than $25 million, while 7 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

b. Providers of Telecommunications and Other Services

i. Telecommunications Service Providers

61. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category

is Wired Telecommunications Carriers and under the SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of Incumbent LECs can be considered small entities.

62. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of IXCs. The closest NAICS Code category is Wired Telecommunications Carriers and the applicable size standard under SBA rules consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers that may be affected are small entities.

63. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is Wired Telecommunications Carriers and under the size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most competitive access providers are small businesses that may be affected by these actions. According to Commission data the *2010 Trends in Telephone Report,* dated September 2010, 1,442 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,442 CAPs and competitive LECs, an estimated 1,256 have 1,500 or few employees and 186 have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive exchange services are small businesses.

64. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

65. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

66. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by these actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

67. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under the SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms has 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

68. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, U.S.

Census Bureau data for 2012 shows that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

69. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million and 42 firms had gross annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that a majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

ii. Internet Service Providers

70. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (*e.g.,* cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard, the majority of firms in this industry can be considered small.

71. *Internet Service Providers (Non-Broadband).* Internet access service providers such as Dial-up internet service providers, VoIP service providers using client-supplied telecommunications connections and internet service providers using client-supplied telecommunications connections (*e.g.,* dial-up ISPs) fall in the category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Consequently, under this size standard, a majority of firms in this industry can be considered small.

iii. Vendors and Equipment Manufacturers

72. *Vendors of Infrastructure Development or ''Network Buildout.''* The Commission has not developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable SBA categories in which manufacturers of network facilities could fall and each have different size standards under the SBA rules. The SBA categories are ''Radio and Television Broadcasting and Wireless Communications Equipment'' with a size standard of 1,250 employees or less and ''Other Communications Equipment Manufacturing'' with a size standard of 750 employees or less.'' U.S. Census Bureau data for 2012 show that for Radio and Television Broadcasting and Wireless Communications Equipment firms 841 establishments operated for the entire year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2012 show that 383 establishments operated for the year. Of that number, 379 firms operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Vendors of Infrastructure Development or ''Network Buildout'' are small.

73. *Telephone Apparatus Manufacturing.* This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways.'' The SBA size standard for Telephone Apparatus Manufacturing is all such firms having 1,250 or fewer employees. According to U.S. Census Bureau data for 2012, there were a total of 266 establishments in this category that operated for the entire year. Of this total, 262 had employment of under 1,000, and an additional 4 had employment of 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

74. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 show that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

75. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment). Examples of such manufacturing include fire

detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (*e.g.,* highway, pedestrian, railway, traffic) manufacturing. The SBA has established a size for this industry as all such firms having 750 or fewer employees. U.S. Census Bureau data for 2012 show that 383 establishments operated in that year. Of that number, 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Other Communications Equipment Manufacturers are small.

5. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

76. There are no new or different reporting, recordkeeping, or other compliance requirements adopted in this R&O that would likely financially impact either large or small entities, including health care providers and service providers.

6. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

77. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

78. In the R&O, the Commission increases available funding for all eligible RHC Program entities including small entities. Specifically, the Commission increases RHC Program support, and thereby increases support available for rural, mostly small, health care providers, by: (1) Increasing the RHC Program support cap to $571 million to apply to FY 2017; (2) prospectively increasing the $571 million RHC Program support cap *via* inflation using the Gross Domestic Price Chain-type Price Index (GDP–CPI) in FY 2018 and beyond; and (3) ''carrying forward'' unused funds committed in one funding year into subsequent funding years.

79. In the R&O, the Commission carefully balanced the significant financial hardship faced by rural health care providers due to the otherwise scarcity of funding and the public health consequences that could result from lack of broadband service with the increase in funding needed to meet the new cap. The Commission considered and rejected arguments to double the cap or to increase it beyond the $571 million adopted in the R&O. The increased cap, indexed to inflation, and the carry forward of unused funds will make more funding available to eligible health care providers including small entities, while minimizing the amount of funds that are needed to be collected. No commenters proposed significant small business alternatives.

7. Report to Congress

80. The Commission will send a copy of the R&O, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the R&O, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the R&O and FRFA (or summaries thereof) will also be published in the **Federal Register**.

E. Effective Date of Report and Order

81. The Commission finds good cause to make the rule changes herein effective June 29, 2018, pursuant to section 553(d) of the Administrative Procedure Act. Agencies determining whether there is good cause to make a new rule or rule revision take effect less than 30 days after **Federal Register** publication must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded a reasonable time to prepare for the effective date of the new rule. Making these rule changes effective June 29, 2018 enables eligible health care providers to benefit from the increased funding cap for FY 2017, thereby avoiding the financial hardship caused by the proration of their funding commitments and the potential public health crises that could result. As noted earlier, the current reduction in funding may impede the ability of rural health care providers to provide essential health care services in their rural communities, or require them to scale back service offerings or quality, and these consequences could be particularly severe for small, rural health care providers with limited budgets.

82. Further, making these rule changes effective upon publication will not burden contributors or RHC Program participants. As a practical matter, contributors pass through their contribution obligations to their end users by a line item on the end user's invoice, which they update quarterly based on the contribution factor. The additional funding required by the R&O to be applied to FY 2017 will be collected over the next two quarters in accordance with our regular course of business for calculating and announcing the quarterly contribution factor, thus requiring no additional or different administrative burden on contributors. No additional time is needed for affected parties to prepare for the rules' effectiveness because USAC and interested parties have already applied for and processed the requests for funding for the current RHC Program year (FY 2017). Additionally, the rule change to increase the funding cap enables eligible health care providers to benefit from increased funding in the current funding year and does not oblige them to take any particular action. The rule changes that index the funding cap to inflation and carry forward unused funds do not impose any additional requirement on RHC Program participants and will be implemented by Commission staff and USAC during FY 2018. Thus, the Commission finds good cause to make these rule changes effective June 29, 2018.

IV. Ordering Clauses

83. Accordingly, *it is ordered* that, pursuant to sections 4(i) through (j), 201(b), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) through (j), 201(b), 254, the Report and Order *is adopted*.

84. *It is furthered ordered* that part 54 of the Commission's rules, 47 CFR part 54, is *amended*, and such rules shall become effective June 29, 2018.

85. *It is further ordered* that, pursuant to the authority contained in sections 1 through 4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154 and 254, and pursuant to § 1.3 and of the Commission's rules, 47 CFR 1.3, that § 54.675 of the Commission's rules, 47 CFR 54.675, *is waived* to the extent provided herein.

86. *It is further ordered* that, pursuant to the authority contained in sections 1 through 4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154 and 254, the petitions for waiver filed by Schools, Health, and Libraries Broadband Coalition filed on April 3, 2018, Advanced Data Solutions (on behalf of Frontier Community Services, Central Peninsula Hospital, Cordova Community Medical Center, Camai

Community Health Center, IHS/ABQ Alamo Health Center and Kenaitze Indian Tribe) filed on May 15, 2018, Bristol Bay Area Health Corporation filed on April 2, 2018, and Council of Athabascan Tribal Government filed on April 9, 2018 *are dismissed as moot.*

87. *It is further ordered* that, pursuant to 5 U.S.C. 801(a)(1)(A), the Commission *shall send* a copy of the Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act.

88. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, internet, Telecommunications.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Amend § 54.675 by revising paragraph (a) to read as follows:

§ 54.675 Cap.

(a) *Amount of the annual cap.* The aggregate annual cap on federal universal service support for health care providers shall be $571 million per funding year, of which up to $150 million per funding year will be available to support upfront payments and multi-year commitments under the Healthcare Connect Fund.

(1) *Inflation increase.* In funding year 2018 and the subsequent funding years, the $571 million cap on federal universal support in the Rural Health Care Program shall be automatically increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) of this section.

(2) *Increase calculation.* To measure increases in the rate of inflation for the purposes of this paragraph (a), the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP–CPI). To compute the annual increase as required by this paragraph (a), the percentage increase in the GDP–CPI from the previous year will be used. For instance, the annual increase in the GDP–CPI from 2017 to 2018 would be used for the 2018 funding year. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be added to the amount of the annual funding cap from the previous funding year. If the yearly average GDP–CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(3) *Public notice.* When the calculation of the yearly average GDP–CPI is determined, the Wireline Competition Bureau shall publish a public notice in the **Federal Register** within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

(4) *Amount of unused funds.* All funds collected that are unused shall be carried forward into subsequent funding years for use in the Rural Health Care Program in accordance with the public interest and notwithstanding the annual cap. The Administrator shall report to the Commission, on a quarterly basis, funding that is unused from prior years of the Rural Health Care Program.

(5) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding year of the Rural Health Care Program in accordance with the public interest and notwithstanding the annual cap as described in this paragraph (a).

* * * * *

[FR Doc. 2018–14073 Filed 6–28–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215, 217, and 243

[Docket DARS–2016–0026]

RIN 0750–AI99

Defense Federal Acquisition Regulation Supplement: Undefinitized Contract Action Definitization (DFARS Case 2015–D024)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action on allowable profit.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 81 FR 73007 on October 21, 2016, to amend the DFARS to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action (UCA), and to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. In some cases, DoD contracting personnel have not documented their consideration of the reduced risk to the contractor of costs incurred during the undefinitized period of a UCA. While such costs generally present very little risk to the contractor, the contracting officer should consider the reasons for any delays in definitization in making their determination of the appropriate assigned value for contract type risk.

II. Discussion and Analysis

Two respondents submitted public comments in response to the proposed rule. DoD reviewed the public comments in the development of this final rule. An analysis of the comments is provided as follows:

A. Summary of Significant Changes

The following changes were made to the language published in the proposed rule:

1. The term ''auditable proposal'' in 215.404–71–2 is revised as ''qualifying proposal as defined in 217.7401(c)'' for consistency with 10 U.S.C. 2326.

2. The instructions for completing blocks 24a and 24b have been revised for clarity.

3. The language at 215.404–71–3(d)(2)(ii) is revised for clarity.

B. Analysis of Public Comments

1. Weighted Guidelines Revision

Comment: One respondent did not see the need to change the current weighted guidelines form and structure to address unique requirements associated with establishing profit objectives for undefinitized contract actions, and therefore recommended no change to the current weighted guidelines application. The respondent asserted that the Government should comply with guidance provided by USD/AT&L, and the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, which stipulates that allowable profit should reflect the cost risk at the time that a contractor submits a qualifying proposal. The respondent stated that contractors should not be penalized for positive and efficient performance because they agreed to start work before final agreement on price, particularly when Government action or inaction is the cause of the delay. The respondent therefore asserted that profit should be based upon the risk at the time of the proposal and not at the time of negotiation.

Response: The stated purpose of this rule is to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of a UCA, and to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. Therefore, the weighted guidelines form is revised to provide a means of clearly demonstrating that the contracting officer has appropriately considered and documented the risk to the contractor during the undefinitized period, as well as the contractor's due diligence in submitting a timely, auditable proposal. DFARS case 2017–D022 has been opened to implement section 811, Modified Restrictions on Undefinitized Contractual Actions, of the NDAA for FY 2017.

2. Costs Incurred Prior to Definitization

Comment: One respondent stated that the requirements of DFARS 215.404–71–3(d)(2), which direct contracting officers to assess the extent to which costs have been incurred prior to definitization of the UCA, are inconsistent with the tenets of the NDAA for FY 2017 and should also be deleted.

Response: The requirements of DFARS 215.404–71–3(d)(2) are consistent with the requirements of section 811 of the NDAA for FY 2017, which are being implemented under DFARS case 2017–D022.

3. Management/Cost Control Weighted Guidelines Factor Adjustment

Comment: One respondent expressed concern that the 1 percent adjustment to the management/cost control factor is tied to the contractor's timely submission of an auditable proposal. The respondent stated that in many cases, industry submits timely, auditable proposals only to have the Government, usually after lengthy delay, deem them insufficient and request an updated proposal. This becomes an endless loop of auditing, requests for updated information (including actuals), more auditing, more requests for updated information, etc.

Response: The adjustment to the management/cost control factor in the weighted guidelines is established to allow contracting officers to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. It is incumbent on contractors to provide timely, auditable proposals in order to demonstrate their efficient management and internal cost control systems.

4. Timely UCA Definitization

Comment: Both respondents expressed concern that the rule does not address the need for the Government to definitize UCAs in a timely manner.

Response: To provide for enhanced management and oversight of UCAs, departments and agencies prepare and maintain semiannual Consolidated UCA Management Plans and UCA Management Reports to ensure contracting officers are actively and efficiently pursuing definitization of UCAs. Likewise, contractors are expected to submit timely, auditable proposals, including adequate supporting data in order to avoid unnecessary delays.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-shelf (COTS) Items

This rule amends the DFARS to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action on allowable profit. The revisions do not add any new burdens or impact applicability of clauses and provisions at or below the simplified acquisition threshold, or to commercial items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The objective of the rule is to gain visibility into the contracting officer's rationale for the contract type risk values entered on the DD Form 1547, Record of Weighted Guidelines Application. The rule requires contracting officers to document in the price negotiation memorandum their rationale for assigning a specific contract type risk value. In addition, Item 24 on the DD Form 1547 is separated into Item 24a, Contract Type Risk (based on contractor incurred costs under a UCA) and Item 24b, Contract Type Risk (based on Government projected costs).

This rule will not have a significant economic impact on a substantial number of small entities. This rule only

changes processes that are internal to the Government by providing a more transparent means of documenting the impact of costs incurred during the undefinitized period of a UCA when calculating negotiation profit objectives. This rule does not revise the current regulatory requirements at DFARS 215.404–71–3(d)(2), which direct contracting officers to assess the extent to which costs have been incurred prior to definitization of the contract action. However, to recognize when contractors demonstrate efficient management and cost control through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA, and the proposal demonstrates effective cost control from the time of award to the present, the contracting officer may add 1 percentage point to the value determined for management/cost control up to the maximum of 7 percent.

There is no change to reporting or recordkeeping as a result of this rule. The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the rule that would meet the requirements. DoD considers the approach described in the proposed rule to be the most practical and beneficial for both Government and industry.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 215, 217, and 243

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 215, 217, and 243 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215, 217, and 243 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

■ 2. Amend section 215.404–71–2 by adding paragraph (e)(2)(iii) to read as follows:

215.404–71–2 Performance risk.

* * * * *

(e) * * *

(2) * * *

(iii) If the contractor demonstrates efficient management and cost control through the submittal of a timely, qualifying proposal (as defined in 217.7401(c)) in furtherance of definitization of an undefinitized contract action, and the proposal demonstrates effective cost control from the time of award to the present, the contracting officer may add 1 percentage point to the value determined for management/cost control up to the maximum of 7 percent.

* * * * *

■ 3. Amend section 215.404–71–3 by revising paragraphs (b) introductory text, (b)(1) through (3), and (d)(2) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) *Determination.* The following extract from the DD 1547 is annotated to explain the process.

Item	Contractor risk factors	Assigned value	Base	Profit objective
24a	Contract Type Risk (based on incurred costs at the time of qualifying proposal submission).	(1)	(2)(i)	(3)
24b	Contract Type Risk (based on Government estimated cost to complete)	(1)	(2)(ii)	(3)
24c	Totals	.....	(3)	(3)

Item	Contractor risk factors	Costs financed	Length factor	Interest rate	Profit objective
25	Working Capital (4)	(5)	(6)	(7)	(8)

(1) Select a value from the list of contract types in paragraph (c) of this section using the evaluation criteria in paragraph (d) of this section. See paragraph (d)(2) of this section.

(2)(i) Insert the amount of costs incurred as of the date the contractor submits a qualifying proposal, such as under an undefinitized contract action, (excluding facilities capital cost of money) into the Block 24a column titled Base.

(ii) Insert the amount of Government estimated cost to complete (excluding facilities capital cost of money) into the Block 24b column titled Base.

(3) Multiply (1) by (2)(i) and (2)(ii), respectively for Blocks 24a and 24b. Add Blocks 24a and 24b and insert the totals in Block 24c.

* * * * *

(d) * * *

(2) *Mandatory.* (i) The contracting officer shall assess the extent to which costs have been incurred prior to definitization of the contract action (also see 217.7404–6(a) and 243.204–70–6). When costs have been incurred prior to definitization, generally regard the contract type risk to be in the low end of the designated range. If a substantial portion of the costs have been incurred prior to definitization, the contracting officer may assign a value as low as 0 percent, regardless of contract type.

(ii) Contracting officers shall document in the price negotiation memorandum the reason for assigning a specific contract type risk value, to include the extent to which any reduced cost risk during the undefinitized period of performance was considered, in determining the negotiation objective.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

217.7404–6 [Amended]

■ 4. Amend section 217.7404–6 by—

■ a. In paragraph (b), removing ''The contractor's reduced cost risk for costs incurred'' and adding in its place ''Any reduced cost risk to the contractor for costs expected to be incurred'' in its place; and

■ b. In paragraph (c), removing ''contract file'' and adding ''price negotiation memorandum'' in its place.

PART 243—CONTRACT MODIFICATIONS

243.204–70–6 [Amended]

■ 5. Amend section 243.204–70–6 by—
■ a. In paragraph (b), removing ''The contractor's reduced cost risk for costs incurred'' and adding ''Any reduced cost risk to the contractor for costs expected to be incurred'' in its place; and
■ b. In paragraph (c), removing ''contract action'' and adding ''unpriced change order'' in its place and removing ''contract file'' and adding ''price negotiation memorandum'' in its place.

[FR Doc. 2018–14042 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 216, 247, and 252

[Docket DARS–2018–0031]

RIN 0750–AJ91

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause ''Requirements'' (DFARS Case 2018–D030)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a clause that is duplicative of an existing Federal Acquisition Regulation (FAR) clause.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove the DFARS clause 252.216–7010, Requirements, the Alternate clause, the associated clause prescription at DFARS 216.506, and a cross-reference to the clause at DFARS 247.271–3(p).

The DFARS clause is included in contracts for preparation of personal property for movement or storage, or for intra-city or intra-area movement; advises contractors that a requirements contract has been issued and how quantities work under the contract; that the delivery of items or performance of work is subject to the issuance of orders; and, that the Government shall order all requirements covered by the contract from the contractor, unless certain circumstances apply.

FAR clause, 52.216–21, Requirements, advises contractors of the same information in the DFARS clause, and also provides a date after which the contractor is not required to make any deliveries under the contract. The DFARS clause is no longer necessary, because the FAR clause applies to the situations in which the DFARS clause is prescribed for use and covers the information contained in the DFARS clause. As such, this DFARS clause is now redundant and can be removed.

The removal of this DFARS clause supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notification of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.216–7010, Requirements, and determined that the DFARS coverage was redundant and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new solicitation provisions or contract clauses. This rule only removes obsolete DFARS provision 252.216–7010, Requirements. Therefore, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

III. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

IV. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

V. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule merely removes an obsolete clause from the DFARS.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section V. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that

require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 216, 247, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 216, 247, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 216, 247, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 216—TYPES OF CONTRACTS

216.506 [Amended]

■ 2. In section 216.506, remove paragraph (d).

PART 247—TRANSPORTATION

247.271–3 [Amended]

■ 3. In section 247.271–3, remove paragraph (p).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.216–7010 [Removed]

■ 4. Remove section 252.216–7010.

[FR Doc. 2018–14041 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

Proposed Rules

Federal Register
Vol. 83, No. 126
Friday, June 29, 2018

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AN52

Federal Employees' Group Life Insurance Program: Clarifying Annual Rates of Pay and Amending the Employment Status of Judges of the United States Court of Appeals for Veterans Claims

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to amend the Federal Employees' Group Life Insurance (FEGLI) regulations to clarify the definition of annual rates of pay for insured employees and to clarify the status of judges of the United States Court of Appeals for Veterans Claims.

DATES: Comments are due on or before August 28, 2018.

ADDRESSES: Send written comments to Ronald Brown, Policy Analyst, Healthcare and Insurance, U.S. Office of Personnel Management, Room 4316, 1900 E Street NW, Washington, DC. You may also submit comments identified by the RIN number stated above using the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Ronald Brown, Policy Analyst, (202) 606–2128, or by email to *Ronald.Brown@opm.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Federal Employees' Group Life Insurance Program (FEGLI) is administered by the United States Office of Personnel Management (OPM) in accordance with Chapter 87 of Title 5 of the U.S. Code and our implementing regulations (title 5, part 87, and title 48, part 21, of the Code of Federal Regulations). The FEGLI enabling legislation was signed August 17, 1954. As of September 30, 2017, FEGLI covers an estimated 4,231,000 employees and annuitants enrolled in Basic insurance, including 1,144,000 employees and annuitants with Option B insurance that has not reduced to zero, 1,187,000 employees and annuitants enrolled in Option A insurance, and 933,000 employees and annuitants enrolled in Option C insurance that has not reduced to zero.

The FEGLI statute establishes the basic rules for benefits, enrollment, and participation, and provides that OPM ''shall specify the types of pay included in annual pay.'' See 5 U.S.C. 8704(c). In accordance, OPM has promulgated regulations defining the ''basic insurance amount'' for all Program enrollees. Further, the ''basic insurance amount'' is defined by law using the term ''annual rate of basic pay.'' See 5 U.S.C. 8701(c). For Program purposes, the basic insurance amount applies to Basic and Option B insurance.

This proposed rule clarifies what is considered annual basic pay for FEGLI Program purposes, but does not change how the annual rate of basic pay is computed, provide additional enrollment or change opportunities, or make other changes not in the existing Program regulations. The proposed rule makes this clear in the revised sections of part 870 by aligning the Program and retirement regulations, and, in the process, eliminating certain outdated regulatory provisions on basic pay.

Discussion of Proposed Changes

OPM is issuing a proposed regulation to clarify that (1) annual basic pay for FEGLI includes any type of pay treated as basic pay for purposes of the retirement systems established under 5 U.S.C. chapters 83 and 84 consistent with applicable law or OPM regulation, and (2) basic pay for FEGLI purposes does not include bonuses, allowances, overtime pay, or any other pay to a covered civilian employee given in addition to the base pay of the position except as otherwise provided by specific provision of law or OPM regulation.

The proposed rule changes existing paragraphs 5 CFR 870.204(a)(1) and (a)(2) to clarify that basic pay for FEGLI purposes includes all payments that are retirement-creditable basic pay under 5 U.S.C. chapters 83 and 84. The proposed rule also deletes paragraphs that are obsolete or creditable by other provisions of law or covered as exceptions to existing law. This includes a revised paragraph on locality pay, special pay supplements, and customs officer pay.

The proposed regulation updates FEGLI regulations to state that (1) judges of the United States Court of Appeals for Veterans Claims, formerly judges of the United States Court of Veterans Appeals, are covered under applicable provisions of 5 U.S.C. chapter 87, and (2) any such judge who is in regular active service and a judge who is retired under chapter 72 of title 38 or under chapter 83 or 84 of title 5 shall be treated as an employee under FEGLI law and regulation.

The proposed regulation updates 5 CFR 870.101 with the correct title of the United States Court of Appeals for Veterans Claims and updates paragraph 5 CFR 870.101 with the correct title of the United States Court of Appeals for Veterans Claims. The proposed regulation also updates paragraph 5 CFR 870.703(e)(1) to state that a judge of the United States Court of Appeals for Veterans Claims who is in regular active service and a judge who is retired under 38 U.S.C. 7296 is considered an employee under the FEGLI Program as required by Public Law 114–315.

Regulatory Impact Analysis: OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule is not considered a major rule because the regulation only clarifies the definition of basic pay, but does not make substantive changes to its computation. This rule only affects the life insurance of a small number of federal employees and annuitants that are or have served as judges for the United States Court of Appeals for Veteran's Claims. As the Court is authorized seven permanent, active Judges, and two additional Judges as part of a temporary expansion

provision, who are appointed for 15-year terms, OPM estimates the number of affected employees is *de minimus.*

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 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. I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects a small number of Federal employees and annuitants.

Executive Order 12866, Regulatory Review

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 13563 and 12866.

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under Executive Order 12866. The proposed rule makes minimal changes to coverage for certain judges, and clarifies that annual basic pay for FEGLI includes any type of pay treated as basic pay for purposes of the retirement systems established under 5 U.S.C. chapters 83 and 84 consistent with applicable law or OPM regulation.

This proposed rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because it is related to agency organization, management, or personnel and affects only a small number of federal employees and annuitants.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3507(d); see 5 CFR part 1320) requires that the U.S. Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. OPM is not proposing any additional collections in this rule. This rule does not affect any existing collections.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life Insurance, Retirement.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

For the reasons stated in the preamble, OPM is proposing to amend part 870 of title 5 of the Code of Federal Regulations as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

■ 1. The authority citation for Part 870 continues to read:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. Start Printed Page 773662542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521.

■ 2. Amend § 870.101 by revising the definition of *Employing Office,* to read as follows:

§ 870.101 Definitions.

Employing Office

* * * * *

(4) The United States Court of Appeals for Veterans Claims is the employing office for judges of the United States Court of Appeals for Veterans Claims.

* * * * *

■ 3. Amend § 870.204 by revising paragraph (a) to read as follows:

§ 870.204 Annual rates of pay.

(a)(1) An employee's annual pay is the annual basic pay of the position as fixed by law or regulation, except as otherwise provided by specific provision of law or OPM regulation. Annual pay for this purpose includes the following:

(i) Any pay of a type that is treated as basic pay for purposes of the retirement systems established under 5 U.S.C. chapters 83 and 84, consistent with 5 U.S.C. 8331(3);

(ii) Any geographic-based pay supplement that is equivalent to a locality-based comparability payment under 5 U.S.C. 5304; and

(iii) Any special pay supplement for a defined subcategory of employees that is equivalent to a special rate supplement under 5 U.S.C. 5305.

(2) Notwithstanding paragraph (a)(1) of this section, annual basic pay does not include the following:

(i) Bonuses, allowances, overtime pay, or any other pay to a covered civilian employee given in addition to the base pay of the position, except as otherwise provided by specific provision of law or OPM regulation.

(ii) Physicians comparability allowances under 5 U.S.C. 5948.

* * * * *

■ 4. Amend § 870.703 by adding paragraph (e)(1)(vii) to read as follows:

§ 870.703 Election of Basic insurance.

* * * * *

(e) * * *

(1) * * *

(vii) 38 U.S.C. 7296.

* * * * *

[FR Doc. 2018–14032 Filed 6–28–18; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 810

[Doc. No. AMS–FGIS–18–0053]

United States Standards for Canola

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for information.

SUMMARY: The United States Department of Agriculture's (USDA) Agricultural

Marketing Service (AMS) is seeking comments from the public regarding the United States (U.S.) Standards for Canola under the United States Grain Standards Act (USGSA). To ensure that standards and official grading practices remain relevant, AMS invites interested parties to comment on whether the current canola standards and grading practices need to be changed.

DATES: We will consider comments we receive by August 28, 2018.

ADDRESSES: Submit comments or notice of intent to submit comments by any of the following methods:

- *Postal Mail:* Please send your comment addressed to Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Hand Delivery or Courier:* Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Internet:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Patrick McCluskey, USDA AMS; Telephone: (816) 659–8403; Email: *Patrick.J.McCluskey@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 4 of the USGSA (7 U.S.C. 76(a)) grants the Secretary of Agriculture the authority to establish standards for canola and other grains regarding kind, class, quality, and condition. The canola standards were established by USDA on February 28, 1992 (57 FR 3271) and appear in the USGSA regulations at 7 CFR 810.301–810.306. The standards facilitate canola marketing and define U.S. canola quality in the domestic and global marketplace. The standards define commonly used industry terms; contain basic principles governing the application of standards, such as the type of sample used for a particular quality analysis; the basis of determination; and specify grades and grade requirements. Official procedures for determining grading factors are provided in Grain Inspection Handbook, Book II, Chapter 3, ''Canola''. The Handbook also includes standardized procedures for additional quality attributes not used to determine grade, such as dockage and moisture content. Together, the grading standards and official procedures allow buyers and sellers to communicate quality requirements, compare canola quality using equivalent forms of measurement, and assist in price discovery.

The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, ''Improving Customer Service and Efficiency'', eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. Federal Grain Inspection Service (FGIS) activities, formerly part of GIPSA, are now organized under AMS. FGIS grading and inspection services are provided through a network of federal, state, and private laboratories that conduct tests to determine the quality and condition of canola. These tests are conducted in accordance with applicable standards using approved methodologies and can be applied at any point in the marketing chain. Furthermore the tests yield rapid, reliable, and consistent results. In addition, FGIS-issued certificates describing the quality and condition of graded canola are accepted as *prima facie* evidence in all Federal courts. U.S. Standards for Canola and the affiliated grading and testing services offered by FGIS verify that a seller's canola meet specified requirements, and ensure that customers receive the quality of canola they purchased.

In order for U.S. standards and grading procedures for canola to remain relevant, AMS is issuing this request for information to invite interested parties to submit comments, ideas, and suggestions on all aspects of the U.S. Standards for Canola and official procedures.

Authority: 7 U.S.C. 71–87k.

Dated: June 26, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–14016 Filed 6–28–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 810

[Doc. No. AMS–FGIS–18–0052]

United States Standards for Corn

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for information.

SUMMARY: The United States Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is seeking comments from the public regarding the United States (U.S.) Standards for Corn under the United States Grain Standards Act (USGSA). To ensure that standards and official grading practices remain relevant, AMS invites interested parties to comment on whether the current corn standards and grading practices need to be changed.

DATES: We will consider comments we receive by August 28, 2018.

ADDRESSES: Submit comments or notice of intent to submit comments by any of the following methods:

- *Postal Mail:* Please send your comment addressed to Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Hand Delivery or Courier:* Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Internet:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Patrick McCluskey, USDA AMS; Telephone: (816) 659–8403; Email: *Patrick.J.McCluskey@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 4 of the USGSA (7 U.S.C. 76(a)) grants the Secretary of Agriculture the authority to establish standards for corn and other grains regarding kind, class, quality, and condition. The corn standards, established by USDA on December 1, 1916, were last revised in 1995 (60 FR 61194) and appear in the USGSA regulations at 7 CFR 810.401–810.405. The standards facilitate corn marketing and define U.S. corn quality in the domestic and global marketplace. The standards define commonly used industry terms; contain basic principles governing the application of standards, such as the type of sample used for a particular quality analysis; the basis of determination; and specify grades and grade requirements. Official procedures for determining grading factors are provided in Grain Inspection Handbook, Book II, Chapter 4, ''Corn''. The Handbook also includes standardized procedures for additional quality attributes not used to determine grade, such as stress crack analysis and moisture content. Together, the grading standards and official procedures allow buyers and sellers to communicate quality requirements, compare corn quality using equivalent forms of measurement, and assist in price discovery.

The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, ''Improving Customer Service and Efficiency'', eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. Federal Grain Inspection Service (FGIS) activities, formerly part of GIPSA, are now organized under

AMS. FGIS grading and inspection services are provided through a network of federal, state, and private laboratories that conduct tests to determine the quality and condition of corn. These tests are conducted in accordance with applicable standards using approved methodologies and can be applied at any point in the marketing chain. Furthermore the tests yield rapid, reliable, and consistent results. In addition, FGIS-issued certificates describing the quality and condition of graded corn are accepted as *prima facie* evidence in all Federal courts. U.S. Standards for Corn and the affiliated grading and testing services offered by FGIS verify that a seller's corn meet specified requirements, and ensure that customers receive the quality of corn they purchased.

In order for U.S. standards and grading procedures for corn to remain relevant, AMS is issuing this request for information to invite interested parties to submit comments, ideas, and suggestions on all aspects of the U.S. Standards for Corn and official procedures.

Authority: 7 U.S.C. 71–87k.

Dated: June 26, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–14017 Filed 6–28–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 810

[Doc. No. AMS–FGIS–18–0054]

United States Standards for Soybeans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for information.

SUMMARY: The United States Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is seeking comments from the public regarding the United States (U.S.) Standards for Soybeans under the United States Grain Standards Act (USGSA). To ensure that standards and official grading practices remain relevant, AMS invites interested parties to comment on whether the current soybean standards and grading practices need to be changed.

DATES: We will consider comments we receive by August 28, 2018.

ADDRESSES: Submit comments or notice of intent to submit comments by any of the following methods:

- *Postal Mail:* Please send your comment addressed to Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Hand Delivery or Courier:* Kendra Kline, AMS, USDA, 1400 Independence Avenue SW, Room 2043–S, Washington, DC 20250–3614.
- *Internet:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Patrick McCluskey, USDA AMS; Telephone: (816) 659–8403; Email: *Patrick.J.McCluskey@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 4 of the USGSA (7 U.S.C. 76(a)) grants the Secretary of Agriculture the authority to establish standards for soybeans and other grains regarding kind, class, quality, and condition. The soybean standards, established by USDA on November 20, 1940, were last revised in 2006 (71 FR 52403) and appear in the USGSA regulations at 7 CFR 810.1601–810.1605. The standards facilitate soybean marketing and define U.S. soybean quality in the domestic and global marketplace. The standards define commonly used industry terms; contain basic principles governing the application of standards, such as the type of sample used for a particular quality analysis; the basis of determination; and specify grades and grade requirements. Official procedures for determining grading factors are provided in Grain Inspection Handbook, Book II, Chapter 10, ''Soybeans''. The Handbook also includes standardized procedures for additional quality attributes not used to determine grade, such as oil and protein content. Together, the grading standards and official procedures allow buyers and sellers to communicate quality requirements, compare soybean quality using equivalent forms of measurement, and assist in price discovery.

The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, ''Improving Customer Service and Efficiency'', eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. Federal Grain Inspection Service (FGIS) activities, formerly part of GIPSA, are now organized under AMS. FGIS grading and inspection services are provided through a network of federal, state, and private laboratories that conduct tests to determine the quality and condition of soybeans. These tests are conducted in accordance with applicable standards using approved methodologies and can be applied at any point in the marketing chain. Furthermore the tests yield rapid, reliable, and consistent results. In addition, FGIS-issued certificates describing the quality and condition of graded soybeans are accepted as *prima facie* evidence in all Federal courts. U.S. Standards for Soybeans and the affiliated grading and testing services offered by FGIS verify that a seller's soybeans meet specified requirements, and ensure that customers receive the quality of soybeans they purchased.

In order for U.S. standards and grading procedures for soybeans to remain relevant, AMS is issuing this request for information to invite interested parties to submit comments, ideas, and suggestions on all aspects of the U.S. Standards for Soybeans and official procedures.

Authority: 7 U.S.C. 71–87k.

Dated: June 26, 2018.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2018–14015 Filed 6–28–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No. 100903432–8557–01]

RIN 0648–BA15

Licensing Private Remote Sensing Space Systems

AGENCY: National Environmental Satellite, Data, and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Department, or Commerce).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Commerce is considering revisions to its regulations for the licensing of private remote sensing space systems, currently administered by NOAA. These revisions would facilitate the continued growth of this critical industry and update the regulatory regime to address significant technological developments, new business models, and increased foreign competition since their last update in 2006. In support of this effort, the Department through NOAA seeks public comment on substantive and procedural matters involved in commercial remote

sensing licensing. Based in part on this public input, and based on a potential public meeting, the Department may draft proposed regulations and issue a Notice of Proposed Rulemaking.

DATES: Comments must be received by August 28, 2018.

ADDRESSES: You may send comments by the following method:

Federal eRulemaking Portal: Go to: *www.regulations.gov* and search for the docket number NOAA–NESDIS–2018–0058. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: NOAA Commercial Remote Sensing Regulatory Affairs, 1335 East-West Highway, G101, Silver Spring, Maryland 20910.

Instructions: The Department of Commerce and NOAA are not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal or commercially proprietary information provided.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, Commercial Remote Sensing Regulatory Affairs, at 301–713–3385, or Glenn Tallia, NOAA Office of General Counsel, at 301–628–1622.

SUPPLEMENTARY INFORMATION:

Background

Per Article VI of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (''Outer Space Treaty''), activities of private U.S. entities in outer space require the ''authorization and continuing supervision'' of the United States Government. Subchapter VI of Title 51, National and Commercial Space Programs (51 U.S.C. 60121 *et seq.,* hereinafter ''Statute''), authorizes the Secretary of Commerce (''Secretary'') to fulfill this responsibility for operators of private remote sensing space systems, by authorizing the Secretary to issue and enforce licenses for the operation of such systems. The Secretary's authority under the Statute is currently delegated to the Assistant Administrator for Satellite and Information Services and implemented through NOAA's existing regulations, 15 CFR part 960, last updated in 2006. Under the Statute, NOAA has issued 119 licenses to U.S. corporations, universities, and people to operate over 1,000 imaging satellites, helping to ensure that the United States remains the clear world leader in this industry.

Through the National Space Council, the Administration has made clear that long-term U.S. national security and foreign policy interests are best served by ensuring that U.S. industry continues to lead this rapidly maturing and highly competitive market. The priorities for the National Space Council and the Department are to: Encourage companies to do business in the United States; help businesses maintain a competitive advantage here; facilitate the growth of this important industry; and support innovation within it. To that end, the Department and NOAA wish to relieve any unnecessary regulatory burdens in the remote sensing area.

Additionally, technological and other developments have highlighted ambiguities in the current regulatory regime, many of which were unforeseeable even just a few years ago. Specific examples include:

- Dramatic increase in the number of license applications
- Increasing remote sensing capabilities in other countries
- Cubesat constellations
- Non-Earth imaging
- Satellite servicing
- Innovative systems capable of imaging in different spectral bands
- Live video broadcasting from space
- Venture capital investment, including significant amounts from foreign nationals and corporations
- New entrants to space markets
- Hosted payloads
- Increasing use of public-private partnerships
- Complex contractual relationships
- Satellite servicing missions, including proximity operations
- Ground station networks located in multiple countries with different regulatory regimes
- Launch vehicles imaging on orbit

The Department recognizes that there have been many proposals to improve the commercial remote sensing regulatory regime, some of which may require new or revised statutory authority to implement. However, the Department may be able to make significant improvements to the licensing of remote sensing even under the existing statute, simply by revising its regulations. Therefore, to support the Administration's above-mentioned priorities and to reflect the dramatic changes in the remote sensing industry since the last update of remote sensing regulations, the Department plans to revise its regulations. Before drafting specific provisions, the Department is seeking input from stakeholders regarding how it should best address a variety of important issues.

Request for Public Comments

The Department welcomes input on any matters related to commercial remote sensing regulation, including specific examples of industry standards, alternative regulatory approaches, and legal definitions that work well in other areas. The Department also invites comment on the overall cost of complying with NOAA's existing regulations and any specific regulatory requirements that are particularly burdensome.

In addition, the Department seeks input on the following specific topics:

Topic 1: Requirement To Obtain a License

The Statute authorizes the Secretary of Commerce to license ''private sector parties to operate private remote sensing space systems'' and prohibits a ''person that is subject to the jurisdiction or control of the United States'' from ''operat[ing] any private remote sensing space system'' without a license (51 U.S.C. 60121(a), 60122(a)).

In pursuit of the Department's goal to facilitate innovation, the Department seeks input on how to define these and other statutory terms in its regulations, and at what level of specificity. Definitions that are more specific would provide greater certainty to industry in determining whether a license is required, but specific definitions could quickly be outpaced by technological change, becoming obsolete or burdensome. Alternatively, less specific definitions could adapt as technology and business models develop, but might provide insufficient certainty to industry. The Department may be able to augment less specific definitions in its regulations with interpretive guidance, which could be updated more regularly to reflect industry developments.

With this background in mind, the Department seeks general comments on this topic. In addition, the Department seeks input in response to the following specific questions:

a. How should Commerce define the statutory terms ''private sector party'' and ''person subject to the jurisdiction or control of the United States?''

b. How should Commerce define the statutory term ''private remote sensing space system?''

c. How should Commerce determine which entity is the operator of a private remote sensing system (the operator is required to obtain a license under the

statute) in complex cases, such as when there are multiple entities involved in the operation of the system?

Topic 2: License Application and Review Processes

Before a license can be granted, the Statute requires the Secretary to determine that the applicant will comply with the Statute, the regulations, and any international obligations and national security concerns (51 U.S.C. 60121(b)(1)). The Statute also requires the Secretary to consult with the Secretaries of Defense and State (51 U.S.C. 60147(a), (b)).

The Department seeks to expedite review of applications as much as possible within statutory constraints. Commerce recognizes that modern remote sensing space systems present a broad range of technical capabilities and possible risks to national security, foreign policy, and international obligations of the United States. Commerce would prefer that the majority of applicants, whose systems present few, if any, such risks, could be reviewed more quickly and be subject to a lighter regulatory approach overall. In addition to providing certainty and quicker review for most applicants, this approach would allow Commerce and its interagency partners to work with industry to focus resources on mitigating only the most critical risks posed by the most capable proposed systems.

With this background in mind, the Department seeks general comments on this topic. In addition, Commerce seeks input in response to the following specific questions:

a. Commerce is considering grouping proposed systems into two or more categories based on the potential risk presented by their capabilities. Those systems categorized as posing only a de minimis risk would be subject to an expedited review process, less restrictive license conditions, and less burdensome compliance requirements (note: Comments are sought on factors potentially relevant for defining review categories and review processes for different categories (Topic 2, below), on license conditions (Topic 3), and on compliance requirements (Topic 4)). The Department seeks input on whether such a strategy is advisable, and if so, how to implement it.

1. Would the proposed category system be advisable?

2. How should Commerce define categories in such a system? Consider the following factors, for example:

A. Earth-surface imaging capabilities, including temporal and spatial resolution

B. Non-Earth imaging capabilities, including temporal and spatial resolution

C. Other technical factors, including spectral range, data management cycle, and duration of the on-orbit capabilities

D. Non-technical matters, including business structure, foreign investment, and the degree of third-party investment in the system

3. What application information should Commerce collect from applicants in different categories (*e.g.,* applications in a de minimis sensing capability category versus moderate or precise sensing capability categories)?

4. How should the review process for the different categories differ, including interagency consultation? Should Commerce issue a license based solely on notification by the applicant and confirmation by Commerce that the proposed system satisfies the criteria for the de minimis category?

5. How and how often should Commerce reevaluate its definition of these categories over time?

b. Should all applications or only applications for some categories of commercial remote sensing licenses enjoy a ''presumption of approval?'' If so, how should Commerce implement this presumption?

c. Would it be helpful to require a pre-application consultation? If so, under which circumstances?

d. How can the Department improve transparency during the application review process?

e. Noting that new technologies can require extensive study, how can Commerce work proactively with the other reviewing agencies and potential future licensees to ensure that the Department is prepared to swiftly review any submitted applications?

Topic 3: License Conditions

While some license conditions are required by statute or regulation, the Secretaries of Defense and State also determine additional individual conditions addressing national security, foreign policy, and international obligations (51 U.S.C. 60122, 60147; 15 CFR 960.11). The Secretary of Commerce, through NOAA, ultimately implements and enforces all license conditions.

Listing standard license conditions in Commerce's regulations would provide applicants with certainty. However, some flexibility may be necessary to allow the Department to tailor conditions to specific systems, as appropriate. Additionally, the Department recognizes that some license conditions can impose a heavy cost burden, which harms industry and frustrates U.S. policy. Commerce seeks to impose those conditions only when legally required or when critical risks to national security, foreign policy, and international obligations are identified. Finally, Commerce recognizes that once a license is issued, permanent retroactive changes to license conditions can be disruptive to a licensee's operations and business.

With this background in mind, the Department seeks general comments on this topic. In addition, the Department seeks input in response to the following specific questions:

a. Considering the default conditions in 15 CFR 960.11, are there any conditions that should be added, removed, or modified in light of technological changes or impacts to the industry?

b. Should there be different default conditions for the different ''categories'' of systems as described in Topic 2?

c. When considering license conditions, how should NOAA think about the cost and benefit of conditions? What information could licensees provide to NOAA to inform that analysis?

d. How should Commerce respond to emerging and unforeseeable national security, foreign policy, and international obligation issues for existing licensed systems (*e.g.,* retroactive conditions, temporary restrictions)?

e. Should the U.S. Government be required to attempt to mitigate any national security or other risks before imposing conditions? If such mitigation would be costly, how should Commerce balance the taxpayer cost with any avoided cost to licensees?

f. Under the Convention on International Liability for Damage Caused by Space Objects, the U.S. Government and taxpayers may be liable for damage caused by a licensee to a space object, person, or property of another nation. The U.S. Government would not be liable if a licensee damages a space object, person, or property of another U.S. entity, but the licensee may lack the financial means to pay damages to an aggrieved entity. NOAA currently requires licensees to submit an orbital debris assessment report and spacecraft disposal plan, but should Commerce also consider a license condition requiring licensees to obtain some level of insurance to cover these potential liabilities? If such insurance is prohibitively expensive, should Commerce consider other, less burdensome means to protect U.S. taxpayers and other U.S. satellite owners?

g. How should Commerce adjust conditions in response to the increasing capabilities of non-U.S. entities? How frequently should NOAA evaluate those increasing capabilities?

h. How can Commerce best provide transparency to licensees regarding classified national security risks?

Topic 4: Compliance and Enforcement

The Secretary is required to ensure compliance with the regulations and with licenses (51 U.S.C. 60123, 15 CFR 960.13–960.15). To meet this obligation, NOAA must collect information, but it seeks to minimize the burden on licensees.

With this background in mind, the Department seeks general comments on this topic. In addition, the Department seeks input in response to the following specific questions:

a. What are appropriate mechanisms for ensuring compliance? Currently, Commerce uses site visits, virtual inspections, quarterly and annual audits, and no-notice inspections as needed.

b. How should Commerce ensure compliance when multiple parties (including investors) play a role in a single licensed system? Options could include licensing all involved parties, or holding a single licensee responsible for the entire system.

c. Are there any improvements the Department could make to its formal adjudication procedures in the regulations?

d. Should Commerce mandate licensees to use certain technical standards, or particular software, for compliance purposes? If so, what standards or software should Commerce require?

e. Should Commerce adopt different compliance policies and procedures for the different categories described in Topic 2? If so, what policies and procedures would be appropriate for the different categories?

Topic 5: Integration With Other Licensing and Regulatory Regimes

The Department recognizes that many NOAA-licensed systems also require licenses from other U.S. Government agencies, and occasionally from agencies in other countries. The Department seeks to reduce the overall regulatory burden to licensees, when possible.

With this background in mind, Commerce seeks general comments on this topic. In addition, the Department seeks input in response to the following specific questions:

a. Within statutory constraints, how can Commerce avoid redundancies and inconsistencies between domestic regulatory regimes?

b. Within statutory constraints, how can Commerce minimize burdens to licensees who operate in multiple countries and are subject to multiple countries' regulatory regimes?

Classification

This advance notice of proposed rulemaking was determined to be significant for purposes of E.O. 12866.

Dated: June 25, 2018.

Stephen Volz,

Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 2018–14038 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2018–N–2309]

The Food and Drug Administration Predictive Toxicology Roadmap and Its Implementation; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a public hearing to solicit comments on FDA's Predictive Toxicology Roadmap, which was issued by FDA on December 6, 2017. FDA is seeking comments on how to foster the development and evaluation of emerging toxicological methods and new technologies and incorporate these methods and technologies into regulatory review, as applicable.

DATES: The public hearing will be held on Wednesday, September 12, 2018, from 9 a.m. to 4 p.m. Persons seeking to attend or to present at the public hearing must register by Wednesday, August 29, 2018. Section III provides attendance and registration information. Electronic or written comments will be accepted after the public hearing until Friday, October 12, 2018.

ADDRESSES: The public hearing will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Entrance for public hearing participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to: *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Electronic Submissions

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted via the *https://www.regulations.gov* electronic filing system by midnight Eastern Time on October 12, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–

2018–N–2309 for ''The FDA Predictive Toxicology Roadmap and its Implementation; Public Hearing; Request for Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions: To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the received electronic and written/paper comments, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tracy Chen, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4309A, Silver Spring, MD 20993, *Tracy.Chen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The scientific discipline of toxicology is particularly essential to FDA's mission because it is applied across the breadth of FDA-regulated product areas. Toxicological testing is performed during the development and evaluation of FDA-regulated products, ranging from human and animal drugs and medical devices to food and food ingredients, human biologics, and tobacco products. Advances in systems biology, stem cells, engineered tissues, and mathematical modeling are creating unique opportunities to improve toxicology's predictive ability, potentially enhancing FDA's ability to predict risk. Also critical is the potential of these advances for replacing, reducing, and/or refining animal testing. Today, novel methods such as organs on a chip and mathematical modeling are generating unique opportunities that may improve our ability to quickly and more accurately predict potential toxicities and reduce associated risks to the public.

FDA centers have each taken significant steps to enhance the use and evaluation of cutting-edge toxicological assays. However, more work needs to be done to achieve broad acceptance of new toxicology methodologies and technologies. FDA's six product centers have different legal authorities for evaluating product safety or toxicity. Nevertheless, more robust methodological evaluation and datasets can help speed the acceptance of emerging predictive toxicology methods across the regulatory product areas.

FDA recognized that a comprehensive strategy was needed to evaluate new methodologies and technologies for their potential to offer greater predictive ability and to protect public health. Acceptance of any new toxicology testing method will require convincing data as well as continuous dialogue and feedback among all relevant stakeholders, from development to implementation, including qualification and acceptance by regulatory authorities.

To ensure that FDA continues to employ cutting-edge science to assess the toxicity of its regulated products and to leverage advances being made in toxicology, the Commissioner of Food and Drugs (the Commissioner) tasked the Agency's Toxicology Working Group with developing a more efficient process for identifying and qualifying emerging predictive toxicology technologies. Established in 2015 and comprised of senior FDA toxicologists from across the Agency, the Working Group has deep expertise in the various FDA product areas and knowledge of the differing legal authorities for evaluating toxicity in those product areas.

For a new testing method to be accepted for use in determining the toxicity of an FDA-regulated product there must be convincing data to ensure that the method can be relied upon for both product development and regulatory decision-making. FDA evaluates the test or series of tests for their applicability, limitations, relevance, reliability, accuracy, reproducibility, and sensitivity in the evaluation of human response and toxicity. Undergoing this process requires continuous dialogue and feedback among all relevant stakeholders, beginning with developers and ending with qualification and acceptance by regulatory authorities.

FDA's Predictive Toxicology Roadmap (*https://www.fda.gov/PredictiveToxRoadmap*) is a six-part framework for integrating predictive toxicology methods into safety and risk assessments. Among other recommendations, it calls for FDA research to identify data gaps and to support research to ensure that the most promising technologies are developed, validated, and integrated into regulatory use. The roadmap also identifies toxicology issues that need addressing for FDA-regulated products and toxicology areas that could benefit from improved predictivity. Because this is a high priority for the Agency, FDA's Toxicology Working Group will be reporting yearly to FDA's Chief Scientist on progress made in this important effort.

II. Topics for Discussion at the Public Hearing

The purpose of this public meeting is to invite public comment on how FDA can better work with its stakeholders to implement the goals of its Predictive Toxicology Roadmap. We invite interested parties to submit comments, especially on the questions listed below on each of the six parts in the roadmap. Comments on additional areas are also welcome.

A. FDA Toxicology Working Group

FDA has formed a senior-level Toxicology Working Group under the direction of the Commissioner to foster enhanced communication among FDA product centers and researchers and leverage FDA resources to advance the evaluation and integration of emerging predictive toxicology methods and new technologies into regulatory safety and risk assessments.

1. Which goals of the FDA Roadmap are most important to FDA stakeholders?

2. What role could FDA stakeholders play in achieving these goals?

B. Training

Continuing current education in new predictive toxicology methods is essential for FDA regulators.

1. What training topics and approaches do you think would help FDA staff to appropriately implement new alternative methods?

2. Are there relevant courses that you can recommend?

3. Should FDA partner with its stakeholders for these training courses and how might this be achieved?

C. Continued Communication

FDA will continue to reaffirm its commitment to and support for incorporating data from newly qualified toxicology methods into regulatory submissions and encourage discussions with stakeholders as part of the regulatory submission process.

1. How can FDA better communicate with stakeholders to encourage discussion on the use of qualified new toxicology methods early in the regulatory process?

2. How can new toxicology methods and approaches be integrated into FDA's review of regulated products?

3. What information do stakeholders need from FDA to qualify alternative methods for a specific context of use?

D. Collaborations

FDA will continue its long practice of fostering collaborations across disciplines nationally and internationally.

1. What partnerships could be useful to FDA to advance the roadmap?

2. Are there existing partnerships that FDA should be involved in to achieve the roadmap's goals?

E. Research

FDA's research programs will identify data gaps and support research to ensure that the most promising technologies are identified, evaluated, and integrated into product development and assessment.

1. What data gaps should be addressed by FDA research and research conducted by external groups?

2. How can FDA encourage and support research in areas of importance to its mission?

3. How could FDA and stakeholders evaluate whether alternative methods are appropriately qualified for a specific context of use?

F. Oversight

The Toxicology Working Group, with representation from each FDA center, will track the progress of these recommendations and report to FDA's Chief Scientist annually.

1. How can FDA ensure transparency in its progress?

2. How can FDA better foster opportunities to share ideas and knowledge with its stakeholders?

3. How can FDA highlight collaborations on the development and testing of new methods?

III. Participating in the Public Hearing

Registration and Requests To Make an Oral Presentation: The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating. Attendance will be free and on a first-come, first-served basis. If you wish to attend either in person or by webcast and/or present at the hearing, please register by Friday, August 17, 2018, at the following website at: *https://www.fda.gov/PredictiveToxRoadmap.*

FDA will try to accommodate all persons who wish to make a presentation. Individuals wishing to present should identify the number of the specific question, or questions, they wish to address. This will help FDA organize the presentations. Individuals and organizations with common interests should consolidate or coordinate their presentations and request time for a joint presentation. FDA will notify registered presenters of their scheduled presentation times. The time allotted for each presentation will depend on the number of individuals who wish to speak but should last a maximum of 10 minutes. Presenters are encouraged to submit an electronic copy of their presentation to *Tracy.Chen@fda.hhs.gov* (See **FOR FURTHER INFORMATION CONTACT**) on or before Friday, August 24, 2018. Persons registered to make an oral presentation are encouraged to arrive at the hearing room early and check in at the onsite registration table to confirm their designated presentation time. An agenda for the hearing and any other background materials will be made available 5 days before the hearing at *https://www.fda.gov/PredictiveToxRoadmap.*

If you need special accommodations because of a disability, please contact Shari Solomon (*shari.solomon@fda.hhs.gov*) no later than Friday, August 17, 2018, at 12 noon Eastern Time.

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff, 5630 Fishers Lane, Room 1061, Rockville, MD 20852.

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE RULEMAKING DOCKETS

Activity	Date	Electronic address	Address
Public hearing	September 12, 2018		FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Rm. 1503A, Silver Spring, MD 20993.
Advance registration	By Wednesday, August 29, 2018.	*https://www.fda.gov/predictivetoxroadmap.*	
Technical assistance		*Jeffery.Rexrode@fda.hhs.gov*	
Request to make an oral presentation.	By Friday, August 17, 2018	*Tracy.Chen@fda.hhs.gov*	
Send PowerPoint slides (10 minutes maximum).	By Friday August 24, 2018	*Tracy.Chen@fda.hhs.gov*	
Request special accommodations due to a disability.	By Friday, August 17, 2018	*shari.solomon@fda.hhs.gov*	
Submit electronic or written comments.	By October 12, 2018	*https://www.regulations.gov*	Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

IV. Notice of Hearing Under 21 CFR Part 15

The Commissioner is announcing that the public hearing will be held in accordance with 21 CFR part 15. The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner and the relevant Centers/Offices. Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members can pose questions; they can question any person during or after each presentation. Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C). Under § 10.205, representatives of the media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see *Transcripts*). To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14052 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0696; FRL–9979–82—Region 1]

Air Plan Approval; Vermont; Infrastructure State Implementation Plan Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from Vermont that addresses the infrastructure requirements of the Clean Air Act (CAA or Act)—including the interstate transport provisions—for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before July 30, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0696, to the *www.regulations.gov* website or via email to *simcox.alison@epa.gov.* For comments submitted to the *www.regulations.gov* website, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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 *www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *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: Alison C. Simcox, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. (617) 918–1684; *simcox.alison@epa.gov.*

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

Table of Contents

I. Background and Purpose

A. What Vermont SIP submissions does this rulemaking address?

This rulemaking addresses a SIP submission from the Vermont Department of Environmental Conservation (VT DEC). The state submitted its infrastructure SIP for the 2012 fine particle ($PM_{2.5}$ [1]) National Ambient Air Quality Standard (NAAQS) on October 31, 2017. This included an enclosure addressing the ''Good Neighbor'' (or ''transport'') provisions for the 2012 $PM_{2.5}$ NAAQS (Section 110(a)(2)(D)(i)(I) of the CAA). Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 $PM_{2.5}$ NAAQS.

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, often referred to as ''fine'' particles.

B. What is the scope of this rulemaking?

EPA is acting on a SIP submission from Vermont that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2012 $PM_{2.5}$ NAAQS.

The requirement for states to make a SIP submission of this type arises out of CAA sections 110(a)(1) and 110(a)(2). Pursuant to these sections, each state must submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. States must make such SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a new or revised NAAQS.'' This requirement is triggered by the promulgation of a new or revised NAAQS and is not conditioned upon EPA's taking any other action. Section 110(a)(2) includes the specific elements that ''each such plan'' must address.

EPA commonly refers to such SIP submissions intended to satisfy the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (''SSM'' emissions) that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (''director's discretion''); and, (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final New Source Review (NSR) Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas separately. A detailed history, interpretation, and rationale for EPA's approach to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' *See* 79 FR 27241 at 27242–45.

II. What guidance is EPA using to evaluate these SIP submissions?

EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 Guidance). EPA has issued additional guidance documents and memoranda, including a September 13, 2013, guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (2013 Guidance) and a September 25, 2009, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (2009 Guidance).[2]

With respect to the Good Neighbor provision, the most recent relevant document was a memorandum published on March 17, 2016, entitled ''Information on the Interstate Transport 'Good Neighbor' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (2016 memorandum). The 2016 memorandum describes EPA's past approach to addressing interstate transport, and provides EPA's general review of relevant modeling data and air quality projections as they relate to the 2012 annual $PM_{2.5}$ NAAQS. The 2016 memorandum provides information relevant to EPA Regional office review of the CAA section 110 (a)(2)(D)(i)(I) ''Good Neighbor'' provision requirements in infrastructure SIPs with respect to the 2012 annual $PM_{2.5}$ NAAQS. This rulemaking considers information provided in that memorandum.

III. EPA's Review

In this notice of proposed rulemaking, EPA is proposing action on a SIP submission from the state of Vermont. In its submission, Vermont presents a detailed list of Vermont Laws and previously SIP-approved Air Quality Regulations showing how the various components of its EPA-approved SIP meet each of the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. The following review evaluates the state's submissions in light of section 110(a)(2) requirements and relevant EPA guidance.

For Vermont's October 31, 2017 submission addressing the 2012 $PM_{2.5}$ NAAQS, we reviewed all Section 110(a)(2) elements, including the transport provisions, but excluding the three areas discussed above under the scope of this rulemaking.

A. Section 110(a)(2)(A)–Emission Limits and Other Control Measures

This section (also referred to in this action as an element) of the Act requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[3] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

Vermont's infrastructure submittal for this element cites Vermont Statutes Annotated (V.S.A) and several Vermont Air Pollution Control Regulations (VT APCR) as follows: Vermont's 10 V.S.A. § 554, ''Powers,'' authorizes the Secretary of the Vermont Agency of Natural Resources (ANR) to ''[a]dopt, amend and repeal rules, implementing the provisions'' of Vermont's air pollution control laws set forth in 10 V.S.A. chapter 23. It also authorizes the Secretary to ''conduct studies, investigations and research relating to air contamination and air pollution'' and to ''[d]etermine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.'' Ten V.S.A. § 556, ''Permits for the construction or modification of air contaminant sources,'' requires applicants to obtain permits for constructing or modifying air contaminant sources, and 10 V.S.A. § 558, ''Emission control requirements,'' authorizes the Secretary ''to establish emission control requirements . . . necessary to prevent, abate, or control

[2] This memorandum and other referenced guidance documents and memoranda are included in the docket for this action.

[3] See, for example, EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (November 12, 2008).

air pollution.'' EPA approved 10 V.S.A. § 554 on June 27, 2017 (82 FR 29005).

The Vermont submittal cites more than 20 specific rules that the state has adopted to control the emissions of $PM_{2.5}$ and its precursors: sulfur dioxide (SO_2), volatile organic compounds (VOCs), and nitrogen oxides (NO_X). A few, with their EPA approval citation [4] are listed here: § 5–201—Open Burning Prohibited (63 FR 19825; April 22, 1998); § 5–251—Control of Nitrogen Oxides Emissions (81 FR 50342; August 1, 2016); § 5–252—Control of Sulfur Dioxide Emissions (81 FR 50342; August 1, 2016); § 5–261—Control of Hazardous Air Contaminants (47 FR 6014; February 10, 1982); § 5–502—Major Stationary Sources and Major Modifications (81 FR 50342; August 1, 2016); § 5–702—Excessive Smoke Emissions from Motor Vehicles (45 FR 10775; February 19, 1980).

Based upon EPA's review of the submittals, EPA proposes that Vermont meets the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2012 $PM_{2.5}$ NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. Each year, states submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

State law authorizes the Secretary of ANR, or authorized representative, to ''conduct studies, investigations and research relating to air contamination and air pollution'' and to ''[d]etermine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.'' *See* 10 V.S.A. § 554(8), (9). VT DEC, one of several departments within ANR, operates an air quality monitoring network, and EPA approved the state's 2017 Annual Air Monitoring Network Plan for $PM_{2.5}$ on August 23, 2017.[5] Furthermore, VT DEC populates AQS with air quality monitoring data in a timely manner, and provides EPA with prior notification when considering a change to its monitoring network or plan. EPA proposes that VT DEC has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of the emission limits and control measures described in section 110(a)(2)(A) and for the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.[6] The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and (iii) a permit program for minor sources and minor modifications.

Sub-Element 1: Enforcement of SIP Measures

State law provides the Secretary of ANR with the authority to enforce air pollution control requirements, including SIP-approved 10 V.S.A. § 554, which authorizes the Secretary of ANR to ''[i]ssue orders as may be necessary to effectuate the purposes of [the state's air pollution control laws] and enforce the same by all appropriate administrative and judicial proceedings.'' In addition, Vermont's SIP-approved regulations VT APCR § 5–501, ''Review of Construction or Modification of Air Contaminant Sources,'' and VT APCR § 5–502, ''Major Stationary Sources and Major Modifications,'' establish requirements for permits to construct, modify or operate major air contaminant sources.

EPA proposes that Vermont has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: PSD Program for Major Sources and Major Modifications

PSD applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of, or unclassifiable with regard to, the relevant NAAQS. The EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS demonstrating that the air agency has a complete PSD permitting program in place satisfying the current requirements for all regulated NSR pollutants. VT DEC's EPA–approved PSD rules, contained at VT APCR Subchapters I, IV, and V, contain provisions that address applicable requirements for all regulated NSR pollutants, including GHGs.

With respect to current requirements for $PM_{2.5}$, we evaluate Vermont's PSD program for consistency with two EPA rules. The first is a final rule issued May 16, 2008, entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). *See* 73 FR 28321. The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation, including requirements for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. As part of identifying precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Finally, the 2008 NSR Rule requires states to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or

[4] The citations reference the most recent EPA approval of the stated rule, or of revisions to the rule. For example, § 5–252 was initially approved on February 4, 1977 (42 FR 6811), with various revisions being approved since then, with the most recent approval of revisions to the applicability section occurring on August 1, 2016 (81 FR 50342).

[5] See EPA approval letter located in the docket for this action.

[6] EPA considers the evaluation of permit provisions that implement Part D to be outside the scope of an infrastructure SIP action because SIPs incorporating necessary local nonattainment area controls are due on separate schedules, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D. Thus, our review under section 110(a)(2)(C) does not evaluate the nonattainment NSR program required by part D of the Act. We are only evaluating the state's PSD program as required by part C of the Act and the state's minor source program (applicable regardless of attainment status) as required by section 110(a)(2)(C).

after January 1, 2011.[7] These requirements are codified in 40 CFR 51.166(b) and 52.21(b). States were required to revise their SIPs consistent with these changes to the federal regulations. On August 1, 2016 (81 FR 50342), EPA approved revisions to Vermont's PSD program satisfying these requirements of the 2008 NSR Rule. *See also* 82 FR 15671 at 15674–75 (March 30, 2017); 82 FR 29005 (June 27, 2017).

The second is a final rule issued October 20, 2010, entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). *See* 75 FR 64864. This rule established several components for making PSD permitting determinations for $PM_{2.5,}$ including adding the required elements for $PM_{2.5}$ into a state's existing system of ''increment analysis,'' which is the mechanism used in the PSD permitting program to estimate significant deterioration of ambient air quality for a pollutant in relation to new source construction or modification. The 2010 NSR Rule revised the existing system for determining increment consumption by establishing a new ''major source baseline date'' for $PM_{2.5}$ and by establishing a trigger date for $PM_{2.5}$ in relation to the definition of ''minor source baseline date.'' Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. These requirements are codified in 40 CFR 51.166(b) and (c) and in 40 CFR 52.21(b) and (c). States were required to revise their SIPs consistent with these changes to the federal regulations.

On August 1, 2016 (81 FR 50342) and September 14, 2016 (81 FR 63102), EPA approved revisions to the Vermont SIP that address certain aspects of EPA's 2010 NSR rule. In addition, on March 19, 2018, EPA approved the state's method for determining the amount of PSD increments available to a new or modified major source. *See* 83 FR 11884. As a result, Vermont's approved PSD program meets the current requirements for $PM_{2.5.}$

[7] On January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1. *Nat. Res. Def. Council* v. *EPA,* 706 F.3d 428. The EPA's approval of Vermont's infrastructure SIP as to elements C, D(i)(II), or J with respect to the PSD requirements promulgated by the 2008 NSR Rule does not conflict with the court's opinion. For more information, *see* 80 FR 42446, July 17, 2015).

On March 19, 2018 (83 FR 11884), EPA also approved revisions to Vermont's PSD program that addressed the PSD requirements of EPA's ''Final Rule to Implement the 8- Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline,'' which obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone. *See* 70 FR 71612 (November 29, 2005). Therefore, Vermont's approved PSD program meets the current requirements for ozone.

With respect to GHGs, on June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Envtl. Prot. Agency,* 134 S.Ct. 2427. The Supreme Court said that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by EPA, the application of the BACT requirement to GHG emissions from Step 1 or ''anyway'' sources. With respect to Step 2 sources, the D.C. Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification.''

On August 19, 2015 (80 FR 50199), EPA amended its PSD and Title V regulations to remove from the Code of Federal Regulations portions of those regulations that the D.C. Circuit specifically identified as vacated. EPA intends to further revise the PSD and Title V regulations to fully implement the Supreme Court and D.C. Circuit rulings in a separate rulemaking. This future rulemaking will include revisions to additional definitions in the PSD regulations.

Some states have begun to revise their existing SIP-approved PSD programs in light of these court decisions, and some states may prefer not to initiate this process until they have more information about the additional planned revisions to EPA's PSD regulations. EPA is not expecting states to have revised their PSD programs in anticipation of EPA's additional actions to revise its PSD program rules in response to the court decisions for purposes of infrastructure SIP submissions. At present, EPA has determined that Vermont's SIP is sufficient to satisfy element C with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Vermont PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy element C. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of Vermont's infrastructure SIP as to the requirements of element C.

For the purposes of the 2012 $PM_{2.5}$ NAAQS infrastructure SIPs, EPA reiterates that NSR Reform regulations are not in the scope of these actions. Therefore, we are not taking action on existing NSR Reform regulations for Vermont.

The EPA is proposing to approve Vermont's infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS with respect to the requirement in section 110(a)(2)(C) to

include a PSD permitting program in the SIP that covers the requirements for all regulated NSR pollutants as required by part C of the Act.

Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulate emissions of the relevant NAAQS pollutants. EPA approved revisions to Vermont's minor NSR program on August 1, 2016 (81 FR 50342). Vermont and EPA rely on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs, VT APCR § 5–502, do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ NAAQS.

We are proposing to find that Vermont has met the requirement to have a SIP-approved minor new source review permit program as required under Section 110(a)(2)(C) for the 2012 $PM_{2.5}$ NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

This section contains a comprehensive set of air quality management elements pertaining to the transport of air pollution with which states must comply. It covers the following five topics, categorized as sub-elements: Sub-element 1, Significant contribution to nonattainment, and interference with maintenance of a NAAQS; Sub-element 2, PSD; Sub-element 3, Visibility protection; Sub-element 4, Interstate pollution abatement; and Sub-element 5, International pollution abatement. Sub-elements 1 through 3 above are found under section 110(a)(2)(D)(i) of the Act, and these items are further categorized into the four prongs discussed below, two of which are found within sub-element 1. Sub-elements 4 and 5 are found under section 110(a)(2)(D)(ii) of the Act and include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Sub-Element 1: Section 110(a)(2)(D)(i)(I)—Contribute to Nonattainment (Prong 1) and Interfere With Maintenance of the NAAQS (Prong 2)

Section 110(a)(2)(D)(i)(I) of the CAA requires a SIP to prohibit any emissions activity in the state that will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any downwind state. EPA commonly refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the ''Good Neighbor'' or ''transport'' provisions of the CAA. This rulemaking proposes action on the portion of Vermont's October 31, 2017 SIP submission that addresses the prong 1 and 2 requirements with respect to the 2012 $PM_{2.5}$ NAAQS.

EPA has developed a consistent framework for addressing the prong 1 and 2 interstate-transport requirements with respect to the $PM_{2.5}$ NAAQS in several previous federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to $PM_{2.5}$ in the Cross-State Air Pollution Rule (CSAPR), which addressed both the 1997 and 2006 $PM_{2.5}$ standards, as well as the 1997 ozone standard. *See* 76 FR 48208 (August 8, 2011).

EPA's analysis for CSAPR, conducted consistent with the four-step framework, included air-quality modeling that evaluated the impacts of 38 eastern states on identified receptors in the eastern United States. EPA indicated that, for step 2 of the framework, states with impacts on downwind receptors that are below the contribution threshold of 1% of the relevant NAAQS would not be considered to significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS, and would, therefore, not be included in CSAPR. *See* 76 FR 48220, August 8, 2011. EPA further indicated that such states could rely on EPA's analysis for CSAPR as technical support in order to demonstrate that their existing or future interstate transport SIP submittals are adequate to address the transport requirements of 110(a)(2)(D)(i)(I) with regard to the relevant NAAQS. *Id.*

In addition, as noted above, on March 17, 2016, EPA released the 2016 memorandum to provide information to states as they develop SIPs addressing the Good Neighbor provision as it pertains to the 2012 $PM_{2.5}$ NAAQS. Consistent with step 1 of the framework, the 2016 memorandum provides projected future-year annual $PM_{2.5}$ design values for monitors throughout the country based on quality-assured and certified ambient-monitoring data and recent air-quality modeling and explains the methodology used to develop these projected design values. The memorandum also describes how the projected values can be used to help determine which monitors should be further evaluated to potentially address if emissions from other states significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS at these monitoring sites. The 2016 memorandum explained that the pertinent year for evaluating air quality for purposes of addressing interstate transport for the 2012 $PM_{2.5}$ NAAQS is 2021, the attainment deadline for 2012 $PM_{2.5}$ NAAQS nonattainment areas classified as Moderate. Accordingly, because the available data included 2017 and 2025 projected average and maximum $PM_{2.5}$ design values calculated through the CAMx photochemical model, the memorandum suggests approaches states might use to interpolate $PM_{2.5}$ values at sites in 2021.

For all, but one, monitoring sites in the eastern United States, the modeling data provided in the 2016 memorandum showed that monitors were expected to both attain and maintain the 2012 $PM_{2.5}$ NAAQS in both 2017 and 2025. The modeling results project that this one monitor, the Liberty monitor, (ID number 420030067), located in Allegheny County, Pennsylvania, will be above the 2012 annual $PM_{2.5}$ NAAQS in 2017, but only under the model's maximum projected conditions, which are used in EPA's interstate transport framework to identify maintenance receptors. The Liberty monitor (along with all the other Allegheny County

monitors) is projected to both attain and maintain the NAAQS in 2025. The 2016 memorandum suggests that under such a condition (again, where EPA's photochemical modeling indicates an area will maintain the 2012 annual $PM_{2.5}$ NAAQS in 2025, but not in 2017), further analysis of the site should be performed to determine if the site may be a nonattainment or maintenance receptor in 2021 (which, again, is the attainment deadline for moderate $PM_{2.5}$ areas). The memorandum also indicates that for certain states with incomplete ambient monitoring data, additional information including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions. This rulemaking considers these analyses for Vermont, as well as additional analysis conducted by EPA during review of Vermont's submittal.

To develop the projected values presented in the memorandum, EPA used the results of nationwide photochemical air-quality modeling that it recently performed to support several rulemakings related to the ozone NAAQS. Base-year modeling was performed for 2011. Future-year modeling was performed for 2017 to support the proposed CSAPR Update for the 2008 Ozone NAAQS. *See* 80 FR 75705 (December 3, 2015). Future-year modeling was also performed for 2025 to support the Regulatory Impact Assessment of the final 2015 Ozone NAAQS.[8] The outputs from these model runs included hourly concentrations of $PM_{2.5}$ that were used in conjunction with measured data to project annual average $PM_{2.5}$ design values for 2017 and 2025. Areas that were designated as moderate $PM_{2.5}$ nonattainment areas for the 2012 annual $PM_{2.5}$ NAAQS in 2014 must attain the NAAQS by December 31, 2021, or as expeditiously as practicable. Although neither the available 2017 nor 2025 future-year modeling data correspond directly to the future-year attainment deadline for moderate $PM_{2.5}$ nonattainment areas, EPA believes that the modeling information is still helpful for identifying potential nonattainment and maintenance receptors in the 2017–2021 period. Assessing downwind $PM_{2.5}$ air-quality problems based on estimates of air-quality concentrations in a future year aligned with the relevant attainment deadline is consistent with the instructions from the United States Court of Appeals for the District of Columbia Circuit in *North Carolina* v. *EPA,* 531 F.3d 896, 911–12 (D.C. Cir. 2008), that upwind emission reductions should be harmonized, to the extent possible, with the attainment deadlines for downwind areas.

[8] *See* 2015 ozone NAAQS RIA at: *www3.epa.gov/ttnecas1/docs/20151001ria.pdf.*

Vermont's Submissions for Prongs 1 and 2

On October 31, 2017, VT DEC submitted an infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS that addressed prongs 1 and 2 for the 2012 $PM_{2.5}$ NAAQS. Vermont's SIP submittal relied in part on EPA's analysis performed for the CSAPR rulemaking to conclude that the state will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any downwind area.

EPA analyzed the state's October 2017 submittal to determine whether it fully addressed the prong 1 and 2 transport provisions with respect to the 2012 $PM_{2.5}$ NAAQS. As discussed below, EPA concludes that emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors (NO_X and SO_2) in Vermont will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state.

As noted, the modeling discussed in EPA's 2016 memorandum identified one potential maintenance receptor for the 2012 $PM_{2.5}$ NAAQS at the Liberty monitor (ID number 420030067), located in Allegheny County, Pennsylvania. The memorandum also identified certain states with incomplete ambient monitoring data as areas that may require further analysis to determine whether there are potential downwind air quality problems that may be impacted by transported emissions.

While developing the 2011 CSAPR rulemaking, EPA modeled the impacts of all 38 eastern states in its modeling domain on fine particulate matter concentrations at downwind receptors in other states in the 2012 analysis year in order to evaluate the contribution of upwind states on downwind states with respect to the 1997 and 2006 $PM_{2.5}$. Although the modeling was not conducted for purposes of analyzing upwind states' impacts on downwind receptors with respect to the 2012 $PM_{2.5}$ NAAQS, the contribution analysis for the 1997 and 2006 standards can be informative for evaluating Vermont's compliance with the Good Neighbor provision for the 2012 standard.

This CSAPR modeling showed that Vermont had a very small impact (0.002 $\mu g/m^3$ annual $PM_{2.5}$) on the Liberty monitor in Allegheny County, Pennsylvania, which is the only out-of-state monitor that may be a nonattainment or maintenance receptor in 2021. (A spreadsheet showing CSAPR contributions for ozone and $PM_{2.5}$ is included in docket EPA–HQ–OAR–2009–0491–4228.) Although EPA has not proposed a particular threshold for evaluating the 2012 $PM_{2.5}$ NAAQS, EPA notes that Vermont's impact on the Liberty monitor is far below the threshold of 1% for the annual 2012 $PM_{2.5}$ NAAQS (*i.e.,* 0.12 $\mu g/m^3$) that EPA previously used to evaluate the contribution of upwind states to downwind air-quality monitors. Therefore, even if the Liberty monitor were considered a receptor for purposes of transport, the EPA proposes to conclude that Vermont will not significantly contribute to nonattainment, or interfere with maintenance, of the 2012 $PM_{2.5}$ NAAQS at that monitor.

In addition, the Liberty monitor is already close to attaining the 2012 $PM_{2.5}$ NAAQS, and expected emissions reductions in the next four years will lead to additional reductions in measured $PM_{2.5}$ concentrations. There are both local and regional components to measured $PM_{2.5}$ levels. All monitors in Allegheny County have a regional component, with the Liberty monitor most strongly influenced by local sources. This is confirmed by the fact that annual average measured concentrations at the Liberty monitor have consistently been 2–4 $\mu g/m^3$ higher than other monitors in Allegheny County.

Specifically, previous CSAPR modeling showed that regional emissions from upwind states, particularly SO_2 and NOx emissions, contribute to $PM_{2.5}$ nonattainment at the Liberty monitor. In recent years, large SO_2 and NO_X reductions from power plants have occurred in Pennsylvania and states upwind from the Greater Pittsburgh region. Pennsylvania's energy sector emissions of SO_2 will have decreased 166,000 tons between 2015–2017 as a result of CSAPR implementation. This is due to both the installation of emissions controls and retirements of electric generating units (EGUs). Projected power plant closures and additional emissions controls in Pennsylvania and upwind states will help further reduce both direct $PM_{2.5}$ and $PM_{2.5}$ precursors. Regional emission reductions will continue to occur from current on-the-books federal and state regulations such as the federal on-road and non-road vehicle programs, and various rules for major stationary emissions sources. *See* proposed approval of the Ohio Infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS (82 FR 57689; December 7, 2017).

In addition to regional emissions reductions and plant closures,

additional local reductions to both direct $PM_{2.5}$ and SO_2 emissions are expected to occur and should contribute to further declines in Allegheny County's $PM_{2.5}$ monitor concentrations. For example, significant SO_2 reductions have recently occurred at US Steel's integrated steel mill facilities in southern Allegheny County as part of a 1-hr SO_2 NAAQS SIP.[9] Reductions are largely due to declining sulfur content in the Clairton Coke Work's coke oven gas (COG). Because this COG is burned at US Steel's Clairton Coke Works, Irvin Mill, and Edgar Thompson Steel Mill, these reductions in sulfur content should contribute to much lower $PM_{2.5}$ precursor emissions in the immediate future. The Allegheny SO_2 SIP also projects lower SO_2 emissions resulting from vehicle fuel standards, reductions in general emissions due to declining population in the Greater Pittsburgh region, and several shutdowns of significant sources of emissions in Allegheny County.

EPA modeling projections, the recent downward trend in local and upwind emissions reductions, the expected continued downward trend in emissions between 2017 and 2021, and the downward trend in monitored $PM_{2.5}$ concentrations all indicate that the Liberty monitor will attain and be able to maintain the 2012 annual $PM_{2.5}$ NAAQS by 2021. *See* proposed approval of the Ohio Infrastructure SIP (82 FR 57689, December 7, 2017).

As noted in the 2016 memorandum, several states have had recent data-quality issues identified as part of the $PM_{2.5}$ designations process. In particular, some ambient $PM_{2.5}$ data for certain time periods between 2009 and 2013 in Florida, Illinois, Idaho, Tennessee, and Kentucky did not meet all data-quality requirements under 40 CFR part 50, appendix L. The lack of data means that the relevant areas in those states could potentially be in nonattainment or be maintenance receptors in 2021. However, EPA's analysis for the 2011 CSAPR rulemaking with respect to the 2006 $PM_{2.5}$ NAAQS determined that Vermont's impact to all these downwind receptors would be well below the 1% contribution threshold for this NAAQS. That conclusion informs the analysis of Vermont's contributions for purposes of the 2012 $PM_{2.5}$ NAAQS as well. Given this, and the fact, discussed below, that the state's $PM_{2.5}$ design values for all ambient monitors have been well below the 2012 $PM_{2.5}$ NAAQS during the period from 2009 to 2013, EPA concludes that it is highly unlikely that Vermont significantly contributes to nonattainment or interferes with maintenance of the 2012 $PM_{2.5}$ NAAQS in areas with data-quality issues.[10]

Information in Enclosure 5 of Vermont's October 2017 SIP submission (Vermont Good Neighbor SIP) corroborates EPA's proposed conclusion that Vermont's SIP meets its obligations under CAA section 110(a)(2)(D)(i)(I). This enclosure includes 2011–2015 design values for the 2012 $PM_{2.5}$ NAAQS in the bordering states of Massachusetts, New Hampshire and New York, which are all well below the annual standard (12.0 $\mu g/m^3$). In addition, the analysis includes a graph showing that the design-value trend at the four ambient monitoring locations in Vermont declined from 2005 to 2016.

This technical analysis is supported by additional indications that air quality is improving and emissions are falling in Vermont. Specifically, certified annual $PM_{2.5}$ monitor values (for monitors meeting minimum data completeness criteria) recorded since 2014 show that the highest value in 2015 was 9.1 $\mu g/m^3$ at a monitor in Rutland, and the highest value in 2016 was 6.8 $\mu g/m^3$ at the same monitor in Rutland.[11]

Second, Vermont's sources are well-controlled. Vermont's 2017 submission indicates that the state has many SIP-approved rules and programs that limit emissions of $PM_{2.5}$, including rules to control emissions of SO_2, $PM_{2.5}$, VOCs and NO_X [12]; Vermont's PSD program contained in VT APCR Subchapters I, IV, and V; Vermont's Regional Haze SIP; and Vermont's Title V program contained in Subchapter X of VT APCR. In addition, Vermont adopted limitations on sulfur in fuel (VT APCR § 5–221(1)) on September 28, 2011.

It should also be noted that Vermont is not in the CSAPR program because EPA analyses show that the state does not emit ozone-season NO_X at a level that contributes significantly to non-attainment or interferes with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other state.

For the reasons explained herein, EPA agrees with Vermont's conclusions and proposes to determine that Vermont will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state. Therefore, EPA is proposing to approve the October 2017 infrastructure SIP submission from Vermont addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

To prevent significant deterioration of air quality, this sub-element requires SIPs to include provisions that prohibit any source or other type of emissions activity in one state from interfering with measures that are required in any other state's SIP under Part C of the CAA. As explained in the 2013 Guidance, a state may meet this requirement with respect to in-state sources and pollutants that are subject to PSD permitting through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. As discussed above under element C, Vermont has such a PSD permitting program. For in-state sources not subject to PSD, this requirement can be satisfied through a fully-approved nonattainment new source review (NNSR) program with respect to any previous NAAQS. EPA's latest approval of some revisions to Vermont's NNSR regulations was on August 1, 2016 (81 FR 50342). Therefore, we are proposing to approve this sub-element for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: Section 110(a)(2)(D)(i)(II)—Visibility Protection (Prong 4)

With regard to applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional-haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Guidance, 2011 Guidance, and 2013 Guidance recommend that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. A fully approved regional haze SIP meeting the requirements of 40 CFR 51.308 will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility. Vermont's Regional Haze SIP was approved by EPA on May 22, 2012 (77 FR 30212). Accordingly, EPA proposes that Vermont has met the

[9] *www.achd.net/air/pubs/SIPs/SO2_2010_NAAQS_SIP_9-14-2017.pdf.*

[10] Vermont's $PM_{2.5}$ design values for all ambient monitors from 2004–2006 through 2013–2015 are available on Table 6 of the 2015 Design Value Report at *https://19january2017snapshot.epa.gov/air-trends/air-quality-design-values_.html.*

[11] 24-hour and annual $PM_{2.5}$ monitor values for individual monitoring sites throughout Vermont are available at *www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

[12] SO_2, NO_X and VOCs contribute to the formation of $PM_{2.5}$.

visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

This sub-element requires that each SIP contain provisions requiring compliance with requirements of section 126 relating to interstate pollution abatement. Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources.

On August 1, 2016 (81 FR 50342), EPA approved revisions to VT APCR § 5–501, which includes a provision that requires VT ANR to provide notice of a draft PSD permit to, among other entities, any state whose lands may be affected by emissions from the source. VT APCR § 5–501(7)(c). Vermont's public notice requirements are consistent with the Federal PSD program's public notice requirements for affected states under 40 CFR 51.166(q). Therefore, we propose to approve Vermont's compliance with the infrastructure SIP requirements of section 126(a) with respect to with respect to the 2012 $PM_{2.5}$ NAAQS. Vermont has no obligations under any other provision of section 126, and no source or sources within the state are the subject of an active finding under section 126 of the CAA with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 5: Section 110(a)(2)(D)(ii)—International Pollution Abatement

This sub-element also requires each SIP to contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. There are no final findings under section 115 of the CAA against Vermont with respect to the 2012 $PM_{2.5}$ NAAQS. Therefore, EPA is proposing that Vermont has met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA for the 2012 $PM_{2.5}$ NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

Section 110(a)(2)(E)(i) requires each SIP to provide assurances that the state will have adequate personnel, funding, and legal authority under state law to carry out its SIP. In addition, section 110(a)(2)(E)(ii) requires each state to comply with the requirements under CAA section 128 about state boards. Finally, section 110(a)(2)(E)(iii) requires that, where a state relies upon local or regional governments or agencies for the implementation of its SIP provisions, the state retain responsibility for ensuring implementation of SIP obligations with respect to relevant NAAQS. Section 110(a)(2)(E)(iii), however, does not apply to this action because Vermont does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Vermont, through its infrastructure SIP submittals, has documented that its air agency has the requisite authority and resources to carry out its SIP obligations. Vermont cites 10 V.S.A. § 553, which designates ANR as the air pollution control agency of the state, and 10 V.S.A § 554, which provides the Secretary of ANR with the power to ''[a]dopt, amend and repeal rules, implementing the provisions'' of 10 V.S.A. Chapter 23, Air Pollution Control, and to ''[a]ppoint and employ personnel and consultants as may be necessary for the administration of'' 10 V.S.A. Chapter 23. Section 554 also authorizes the Secretary of ANR to ''[a]ccept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purposes of carrying out any of the functions of'' 10 V.S.A. Chapter 23. Additionally, 3 V.S.A. § 2822 provides the Secretary of ANR with the authority to assess air permit and registration fees, which fund state air programs. In addition to Federal funding and permit and registration fees, Vermont notes that the Vermont Air Quality and Climate Division (AQCD) receives state funding to implement its air programs.[13]

EPA proposes that Vermont has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E)(ii) requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (1) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (2) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

In Vermont, no board or body approves permits or enforcement orders; these are approved by the Secretary of Vermont ANR. Thus, with respect to this sub-element, Vermont is subject only to the requirements of paragraph (a)(2) of section 128 of the CAA (regarding conflicts of interest). On June 27, 2017, EPA approved Vermont's SIP revision addressing the conflict of interest requirements of section 128. *See* 82 FR 29005. For a detailed analysis explaining how Vermont meets these requirements, see EPA's notice of proposed rulemaking for that action. 82 FR 15671, 15678 (March 30, 2017).

EPA proposes that Vermont has met the applicable infrastructure SIP requirements for this sub-element for the 2012 $PM_{2.5}$ NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards. Lastly, the reports shall be available at reasonable times for public inspection.

Vermont's infrastructure submittal references existing state regulations previously approved by EPA that require sources to monitor emissions and submit reports. In particular, VT APCR § 5–405, Required Air Monitoring, (45 FR 10775, February 19, 1980), provides that ANR ''may require the owner or operator of any air contaminant source to install, use and maintain such monitoring equipment and records, establish and maintain such records, and make such periodic

[13] VT ANR's authority to carry out the provisions of the SIP identified in 40 CFR 51.230 is discussed in the sections of this document assessing elements A, C, F, and G, as applicable.

emission reports as [ANR] shall prescribe.'' Moreover, section 5–402, Written Reports When Requested (81 FR 50342; August 1, 2016), authorizes ANR to ''require written reports from the person operating or responsible for any proposed or existing air contaminant source, which reports shall contain,'' among other things, information concerning the ''nature and amount and time periods or durations of emissions and such other information as may be relevant to the air pollution potential of the source. These reports shall also include the results of such source testing as may be required under Section 5–404 herein.'' Section 5–404, Methods for Sampling and Testing of Sources (45 FR 10775 February 19, 1980) in turn authorizes ANR to ''require the owner or operator of [a] source to conduct tests to determine the quantity of particulate and/or gaseous matter being emitted'' and requires a source to allow access, should ANR have reason to believe that emission limits are being violated by the source, and allows ANR ''to conduct tests of [its] own to determine compliance.'' In addition, operators of sources that emit more than five tons of any and all air contaminants per year are required to register the source with the Secretary of ANR and to submit emissions data annually, pursuant to § 5–802, Requirement for Registration, and § 5–803, Registration Procedure (60 FR 2524 January 10, 1995). Vermont also certifies that nothing in its SIP would preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. *See* 40 CFR 51.212(c).

Vermont's infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS provides for correlation by VT DEC of emissions reports by sources with applicable emission limitations or standards, as required by CAA § 110(a)(2)(F)(iii). Vermont receives emissions data through its annual registration program. Currently, VT DEC analyzes a portion of these data manually to correlate a facility's actual emissions with permit conditions, NAAQS, and, if applicable, hazardous air contaminant action levels. VT DEC reports that it is in the process of setting up an integrated electronic database that will merge all air contaminant source information across permitting, compliance and registration programs, so that information concerning permit conditions, annual emissions data, and compliance data will be accessible in one location for a particular air contaminant source. The database will be capable of correlating certain emissions data with permit conditions and other applicable standards electronically, where feasible, to allow VT DEC to complete this correlation more efficiently and accurately.

Regarding the section 110(a)(2)(F) requirement that the SIP ensure that the public has availability to emission reports, Vermont certified in its October 31, 2017 submittal for the 2012 $PM_{2.5}$ NAAQS that the Vermont Public Records Act, 1 V.S.A. §§ 315–320, provides for the free and open examination of public records, including emissions reports. Furthermore, 10 V.S.A. § 563 specifically provides that the ANR ''Secretary shall not withhold emissions data and emission monitoring data from public inspection or review'' and ''shall keep confidential any record or other information furnished to or obtained by the Secretary concerning an air contaminant source, *other than emissions data and emission monitoring data,* that qualifies as a trade secret pursuant to 1 V.S.A. § 317(c)(9).'' (emphasis added). EPA approved section 563 into the Vermont SIP on June 27, 2017 (82 FR 29005).

Consequently, EPA proposes that Vermont has met the infrastructure SIP requirements of section 110(a)(2)(F) for the 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for state authority analogous to that provided to the EPA Administrator in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in the event that ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

On June 27, 2017, EPA approved a Vermont SIP revision addressing the requirement that the plan provide for state authority comparable to that in section 303 of the CAA. *See* 82 FR 29005. For a detailed analysis explaining how Vermont meets this requirement, see EPA's March 30, 2017 (82 FR 15671, 15679) notice of proposed rulemaking for that action. Therefore, we are proposing to approve the state's submittals with respect to this requirement of Section 110(a)(2)(G) for 2012 $PM_{2.5}$ NAAQS.

Section 110(a)(2)(G) also requires that Vermont have an approved contingency plan for any Air Quality Control Region (AQCR) within the state that is classified as Priority I, IA, or II for certain pollutants. *See* 40 CFR 51.150, 51.152(c). In general, contingency plans for Priority I, IA, and II areas must meet the applicable requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (''Prevention of Air Pollution Emergency Episodes'') for the relevant NAAQS, if the NAAQS is covered by those regulations. In the case of $PM_{2.5}$, EPA has not issued regulations that provide the ambient levels to classify different priority levels for the 2012 standard (or any $PM_{2.5}$ NAAQS). EPA's 2009 Guidance recommends that states develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140 $\mu g/m^3$ since 2006. EPA's review of Vermont's certified air quality data in AQS indicates that the highest 24-hour $PM_{2.5}$ level since 2006 was 43.5 $\mu g/m^3$, which occurred in 2015 at the ambient monitor in Rutland.[14] Thus, an emergency episode plan for $PM_{2.5}$ is not necessary. Although not expected, if $PM_{2.5}$ conditions were to change, Vermont does have general authority, as noted previously (*i.e.,* 10 V.S.A. § 560 and 10 V.S.A. § 8009), to order a source to cease operations if it is determined that emissions from the source pose an imminent danger to human health or safety or an immediate threat of substantial harm to the environment.

In addition, as stated in Vermont's infrastructure SIP submittal under the discussion of public notification (Element J), Vermont posts near real-time air quality data, air quality predictions and a record of historical data on the VT DEC website and distributes air quality alerts by email to many parties, including the media. Alerts include information about the health implications of elevated pollutant levels and list actions to reduce emissions and to reduce the public's exposure. In addition, daily forecasted fine particle levels are also made available on the internet through the EPA AirNow and EnviroFlash systems. Information regarding these two systems is available on EPA's

[14] 24-hour $PM_{2.5}$ monitor values for individual monitoring sites throughout Vermont are available at *www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

website at *www.airnow.gov.* Notices are sent out to EnviroFlash participants when levels are forecast to exceed the current 24-hour $PM_{2.5}$ standard.

EPA proposes that Vermont has met the applicable infrastructure SIP requirements for section 110(a)(2)(G) with respect to contingency plans for the 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires that a state's SIP provide for revision from time to time as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate. To address this requirement, Vermont's infrastructure submittal references 10 V.S.A § 554, which provides the Secretary of Vermont ANR with the power to ''[p]repare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state'' and to ''[a]dopt, amend and repeal rules, implementing the provisions'' of Vermont's air pollution control laws set forth in 10 V.S.A. chapter 23. EPA approved 10 V.S.A. § 554 on June 27, 2017 (82 FR 29005). EPA proposes that Vermont has met the infrastructure SIP requirements of CAA section 110(a)(2)(H) with respect to the 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas. EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; Prevention of Significant Deterioration; Visibility Protection

Section 110(a)(2)(J) of the CAA requires that each SIP ''meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to PSD of air quality and visibility protection).'' The evaluation of the submission from Vermont with respect to these requirements is described below.

Sub-Element 1: Consultation With Government Officials

Pursuant to CAA section 121, a state must provide a satisfactory process for consultation with local governments and Federal Land Managers (FLMs) in carrying out its NAAQS implementation requirements.

Vermont's 10 V.S.A § 554 specifies that the Secretary of Vermont ANR shall have the power to ''[a]dvise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.'' EPA approved 10 V.S.A. § 554 on June 27, 2017 (82 FR 29005). In addition, VT APCR § 5–501(7)(c) requires VT ANR to provide notice to local governments and federal land managers of a determination by ANR to issue a draft PSD permit for a major stationary source or major modification. On August 1, 2016 (81 FR 50342), EPA approved VT APCR § 5–501(7)(c) into Vermont's SIP. Therefore, EPA proposes that Vermont has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Public Notification

Pursuant to CAA section 127, states must notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

Vermont's 10 V.S.A § 554 authorizes the Secretary of Vermont ANR to ''[c]ollect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.'' In addition, the VT DEC Air Quality and Climate Division website includes near real-time air quality data, and a record of historical data. Air quality forecasts are distributed daily via email to interested parties. Air quality alerts are sent by email to a large number of affected parties, including the media. Alerts include information about the health implications of elevated pollutant levels and list actions to reduce emissions and to reduce the public's exposure. Also, Air Quality Data Summaries of the year's air quality monitoring results are issued annually and posted on the VT DEC Air Quality and Climate Division website. Vermont is also an active partner in EPA's AirNow and EnviroFlash air quality alert programs.

EPA proposes that Vermont has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

EPA has already discussed Vermont's PSD program in the context of infrastructure SIPs in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II) and determined that it satisfies the requirements of EPA's PSD implementation rules. Therefore, the SIP also satisfies the PSD sub-element of section 110(a)(2)(J) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, as noted in EPA's 2013 guidance, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS.

Based on the above analysis, EPA proposes that Vermont has met the infrastructure SIP requirements of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

Section 110(a)(2)(K) of the Act requires that a SIP provide for the performance of such air quality modeling as the EPA Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS, and the submission, upon request, of data related to such air quality modeling. EPA has published modeling guidelines at 40 CFR part 51, appendix W, for predicting the effects of emissions of criteria pollutants on ambient air quality. EPA also recommends in the 2013 Guidance that, to meet section 110(a)(2)(K), a state submit or reference the statutory or regulatory provisions that provide the air agency with the authority to conduct such air quality modeling and to provide such modeling data to EPA upon request. *See* 2013 Guidance at 55.

In its submittal, Vermont cites to VT APCR § 5–406, Required Air Modeling,

which authorizes ''[t]he Air Pollution Control Officer [to] require the owner or operator of any proposed air contaminant source . . . to conduct . . . air quality modeling and to submit an air quality impact evaluation to demonstrate that operation of the proposed source . . . will not directly or indirectly result in a violation of any ambient air quality standard, interfere with the attainment of any ambient air quality standard, or violate any applicable prevention of significant deterioration increment . . . .'' Vermont reviews the potential impact of such sources consistent with EPA's ''Guidelines on Air Quality Models'' at 40 CFR part 51, appendix W. *See* VT APCR § 5–406(2). Vermont also cites to VT APCR § 5–502, Major Stationary Sources and Major Modifications, which requires the submittal of an air quality impact evaluation or air quality modeling to ANR to demonstrate impacts of new and modified major sources, in accordance with VT APCR § 5–406. The modeling data are sent to EPA along with the draft major permit. As a result, the SIP provides for such air quality modeling as the Administrator has prescribed and for the submission, upon request, of data related to such modeling.

The state also collaborates with the Ozone Transport Commission (OTC) and the Mid-Atlantic Regional Air Management Association and EPA in order to perform large-scale urban air shed modeling for ozone and PM, if necessary. EPA proposes that Vermont has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the costs of reviewing, approving, implementing, and enforcing a permit.

Vermont implements and operates a Title V permit program. *See* Subchapter X of VT APCR, which was approved by EPA on November 29, 2001 (66 FR 59535). To gain this approval, Vermont demonstrated the ability to collect sufficient fees to run the program. Vermont also notes in its submittals that the costs of all CAA permitting, implementation, and enforcement for new or modified sources are covered by Title V fees, and that Vermont state law provides for the assessment of application fees from air emissions sources for permits for the construction or modification of air contaminant sources, and sets forth permit fees. *See* 10 V.S.A § 556, 3 V.S.A § 2822(j).

EPA proposes that Vermont has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2012 $PM_{2.5}$ NAAQS.

M. Section 110(a)(2)(M)—Consultation/ Participation by Affected Local Entities

To satisfy Element M, states must provide for consultation with, and participation by, local political subdivisions affected by the SIP. Vermont's infrastructure submittal references 10 V.S.A § 554, which was approved into the VT SIP on June 27, 2017 (82 FR 29005). This statute authorizes the Secretary of Vermont ANR to ''[a]dvise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.'' In addition, VT APCR § 5–501(7) provides for notification to local officials and agencies about the opportunity for participating in permitting determinations for the construction or modification of major sources. EPA proposes that Vermont has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2012 $PM_{2.5}$ NAAQS.

IV. Proposed Action

EPA is proposing to approve the elements of the infrastructure SIP submitted by Vermont on October 31, 2017 for the 2012 $PM_{2.5}$ NAAQS. Specifically, EPA's proposed action regarding each infrastructure SIP requirement is contained in Table 1 below.

TABLE 1—PROPOSED ACTION ON VERMONT'S INFRASTRUCTURE SIP SUBMITTAL FOR THE 2012 $PM_{2.5}$ NAAQS

Element	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)1: Enforcement of SIP measures	A
(C)2: PSD program for major sources and major modifications	A
(C)3: PSD program for minor sources and minor modifications	A
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	A
(D)2: PSD	A
(D)3: Visibility Protection	A
(D)4: Interstate Pollution Abatement	A
(D)5: International Pollution Abatement	A
(E)1: Adequate resources	A
(E)2: State boards	A
(E)3: Necessary assurances with respect to local agencies	NA
(F): Stationary source monitoring system	A
(G): Emergency power	A
(H): Future SIP revisions	A
(I): Nonattainment area plan or plan revisions under part D	+
(J)1: Consultation with government officials	A
(J)2: Public notification	A
(J)3: PSD	A
(J)4: Visibility protection	+
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

In the above table, the key is as follows: A, Approve; NA, Not applicable; +, Not germane to infrastructure SIPs.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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: June 22, 2018.

Alexandra Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–14068 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0626; FRL–9980–18–Region 4]

Air Plan Approval; Tennessee; Attainment Plan for Sullivan County SO_2 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), to EPA on May 12, 2017, for attaining the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Sullivan County SO_2 nonattainment area (hereafter referred to as the ''Sullivan County Area'' or ''Area''). The Sullivan County Area is comprised of a portion of Sullivan County in Tennessee surrounding the Eastman Chemical Company (hereafter referred to as ''Eastman''). This plan (herein called a ''nonattainment plan or SIP'' or ''attainment plan or SIP'') includes Tennessee's attainment demonstration and other elements required under the Clean Air Act (CAA or Act). In addition to an attainment demonstration, the plan addresses the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), base-year and projection-year emissions inventories, enforceable emissions limitations and control measures, and contingency measures. EPA proposes to conclude that Tennessee has appropriately demonstrated that the plan's provisions provide for attainment of the 2010 1-hour primary SO_2 NAAQS in the Sullivan County Area and that the plan meets the other applicable requirements under the CAA.

DATES: Comments must be received on or before July 30, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0626 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, 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. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Requirement for Tennessee To Submit an SO_2 Attainment Plan for the Sullivan County Area

On June 22, 2010, EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a)–(b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These designations included the Sullivan County Area, which encompasses the primary SO_2 emitting source Eastman and the nearby SO_2 monitor (Air Quality Site ID: 47–163–0007). These area designations were effective October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, *i.e.,* by no later than April 4, 2015 in this case. Under CAA section 192(a) these SIPs are required to demonstrate that their respective areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, which is October 4, 2018. In addition, sections 110(a) and 172(c), as well as EPA regulations at 40 CFR part 51, set forth substantive elements each SIP must contain to be approved by EPA.

For the Sullivan County Area (and many other areas), EPA published a notice on March 18, 2016, that Tennessee (and other pertinent states) had failed to submit the required SO_2 nonattainment plan by this submittal deadline. *See* 81 FR 14736. This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source review and highway funding sanctions. However, pursuant to Tennessee's submittal of May 12, 2017, and EPA's subsequent letter dated October 10, 2017, to Tennessee finding the submittal complete and noting the termination of these sanctions deadlines, these sanctions under section 179(a) will not be imposed as a result of Tennessee having missed the April 4, 2015 deadline. Under CAA section 110(c), the March 18, 2016 finding also triggered a requirement that EPA promulgate a federal implementation plan (FIP) within two years of the finding unless (a) the state has made the necessary complete submittal and (b) EPA has approved the submittal as meeting applicable requirements.

II. Requirements for SO_2 Attainment Plans

To be approved by EPA, nonattainment areas must provide SIPs meeting the applicable requirements of the CAA, and specifically CAA sections 110(a), 172, 191 and 192 for SO_2. EPA's regulations governing nonattainment SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements residing at subparts F and G, respectively. Soon after Congress enacted the 1990 Amendments to the CAA, EPA issued comprehensive guidance on SIPs, in a document entitled the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' published at 57 FR 13498 (April 16, 1992) (General Preamble). Among other things, the General Preamble addressed SO_2 SIPs and fundamental principles for SIP control strategies. *Id.,* at 13545–49, 13567–68. On April 23, 2014, EPA issued recommended guidance for meeting the statutory requirements in SO_2 SIPs under the 2010 revised NAAQS, in a document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' available at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf* (hereafter referred to as EPA's April 2014 SO_2 guidance or guidance). In this guidance EPA described the statutory requirements for SO_2 SIPs for nonattainment areas, which includes: An accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of RFP; implementation of RACM (including RACT); new source review (NSR); enforceable emissions limitations and control measures; and adequate contingency measures for the affected area.

For EPA to fully approve a SIP as meeting the requirements of CAA sections 110, 172 and 191–192, and EPA's regulations at 40 CFR part 51, the SIP for the affected area needs to demonstrate to EPA's satisfaction that each of the aforementioned requirements have been met. Under CAA sections 110(l) and 193, EPA may not approve a SIP that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement, and no requirement in effect (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990) in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless it insures equivalent or greater emission reductions of such air pollutant.

III. Attainment Demonstration and Longer Term Averaging

CAA sections 172(c)(1) and (6) direct states with areas designated as nonattainment to demonstrate that the submitted plan provides for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and EPA has long required that all SIPs and control strategies reflect four fundamental principles of quantification, enforceability, replicability, and accountability. General Preamble, at 13567–68. SO_2 attainment plans must consist of two components: (1) Emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, appendix W which demonstrates that these emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, the emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures and must be quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully-enforceable (specifying clear, unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are

sufficiently specific and non-subjective so that two independent entities applying the procedures would obtain the same result), and accountable (source specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

EPA's April 2014 SO_2 guidance recommends that the emission limits be expressed as short-term average limits (*e.g.,* addressing emissions averaged over one or three hours), but also describes the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria. *See* EPA's April 2014 SO_2 guidance, pp. 22 to 39. The guidance recommends that—should states and sources utilize longer averaging times—the longer term average limit should be set at an adjusted level that reflects a stringency comparable to the 1-hour average limit at the critical emission value (CEV) shown by modeling to provide for attainment that the plan otherwise would have set.

EPA's April 2014 SO_2 guidance provides an extensive discussion of EPA's rationale for concluding that appropriately set comparably stringent limitations based on averaging times as long as 30 days can be found to provide for attainment of the 2010 SO_2 NAAQS. In evaluating this option, EPA considered the nature of the standard, conducted detailed analyses of the impact of use of 30-day average limits on the prospects for attaining the standard, and carefully reviewed how best to achieve an appropriate balance among the various factors that warrant consideration in judging whether a state's plan provides for attainment. *Id.* at pp. 22 to 39. *See* also *id.* at Appendices B, C, and D.

As specified in 40 CFR 50.17(b), the 1-hour primary SO_2 NAAQS is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb. In a year with 365 days of valid monitoring data, the 99th percentile would be the fourth highest daily maximum 1-hour value. The 2010 SO_2 NAAQS, including this form of determining compliance with the standard, was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Nat'l Envt'l Dev. Ass'n's Clean Air Project* v. *EPA,* 686 F.3d 803 (D.C. Cir. 2012). Because the standard has this form, a single hourly exceedance of the 75-ppb level does not create a violation of the standard. Instead, at issue is whether a source operating in compliance with a properly set longer term average could cause hourly exceedances of the NAAQS level, and if so the resulting frequency and magnitude of such exceedances, and in particular whether EPA can have reasonable confidence that a properly set longer term average limit will provide that the 3-year average of the annual fourth highest daily maximum 1-hour value will be at or below 75 ppb. A synopsis of how EPA judges whether such plans ''provide for attainment,'' based on modeling of projected allowable emissions and in light of the NAAQS's form for determining attainment at monitoring sites, follows.

For SO_2 plans that are based on 1-hour emission limits, the standard approach is to conduct modeling using fixed emission rates. The maximum emission rate that would be modeled to result in attainment (*i.e.,* in an ''average year'' [1] shows three, not four days with maximum hourly levels exceeding 75 ppb) is labeled the ''critical emission value.'' The modeling process for identifying this critical emissions value inherently considers the numerous variables that affect ambient concentrations of SO_2, such as meteorological data, background concentrations, and topography. In the standard approach, the state would then provide for attainment by setting a continuously applicable 1-hour emission limit at this critical emission value.

EPA recognizes that some sources have highly variable emissions, for example due to variations in fuel sulfur content and operating rate, that can make it extremely difficult, even with a well-designed control strategy, to ensure in practice that emissions for any given hour do not exceed the critical emission value. EPA also acknowledges the concern that longer term emission limits can allow short periods with emissions above the ''critical emissions value,'' which, if coincident with meteorological conditions conducive to high SO_2 concentrations, could in turn create the possibility of a NAAQS exceedance occurring on a day when an exceedance would not have occurred if emissions were continuously controlled at the level corresponding to the critical emission value. However, for several reasons, EPA believes that the approach recommended in its guidance document suitably addresses this concern. First, from a practical perspective, EPA expects the actual emission profile of a source subject to an appropriately set longer term average limit to be similar to the emission profile of a source subject to an analogous 1-hour average limit. EPA expects this similarity because it has recommended that the longer term average limit be set at a level that is comparably stringent to the otherwise applicable 1-hour limit (reflecting a downward adjustment from the critical emissions value) and that takes the source's emissions profile into account. As a result, EPA expects either form of emission limit to yield comparable air quality.

Second, from a more theoretical perspective, EPA has compared the likely air quality with a source having maximum allowable emissions under an appropriately set longer term limit, as compared to the likely air quality with the source having maximum allowable emissions under the comparable 1-hour limit. In this comparison, in the 1-hour average limit scenario, the source is presumed at all times to emit at the critical emission level, and in the longer term average limit scenario the source is presumed to occasionally emit more than the critical emission value but on average, and presumably at most times, to emit well below the critical emission value. In an ''average year,'' compliance with the 1-hour limit is expected to result in three exceedance days (*i.e.,* three days with hourly values above 75 ppb) and a fourth day with a maximum hourly value at 75 ppb. By comparison, with the source complying with a longer term limit, it is possible that additional exceedances would occur that would not occur in the 1-hour limit scenario (if emissions exceed the critical emission value at times when meteorology is conducive to poor air quality). However, this comparison must also factor in the likelihood that exceedances that would be expected in the 1-hour limit scenario would not occur in the longer term limit scenario. This result arises because the longer term limit requires lower emissions most of the time (because the limit is set well below the critical emission value), so a source complying with an appropriately set longer term limit is likely to have lower emissions at critical times than would be the case if the source were emitting as allowed with a 1-hour limit.

As a hypothetical example to illustrate these points, suppose a source that always emits 1,000 pounds of SO_2 per hour, which results in air quality at the level of the NAAQS (*i.e.,* results in a design value of 75 ppb). Suppose further that in an ''average year,'' these emissions cause the 5-highest maximum

[1] An ''average year'' is used to mean a year with average air quality. While 40 CFR 50 appendix T provides for averaging three years of 99th percentile daily maximum hourly values (*e.g.,* the fourth highest maximum daily hourly concentration in a year with 365 days with valid data), this discussion and an example below uses a single ''average year'' to simplify the illustration of relevant principles.

daily average 1-hour concentrations to be 100 ppb, 90 ppb, 80 ppb, 75 ppb, and 70 ppb. Then suppose that the source becomes subject to a 30-day average emission limit of 700 pounds per hour (lbs/hr). It is theoretically possible for a source meeting this limit to have emissions that occasionally exceed 1,000 pounds per hour, but with a typical emissions profile, emissions would much more commonly be between 600 and 800 lbs/hr. In this simplified example, assume a zero-background concentration, which allows one to assume a linear relationship between emissions and air quality. (A nonzero background concentration would make the mathematics more difficult but would give similar results.) Air quality will depend on what emissions happen on what critical hours, but suppose that emissions at the relevant times on these 5 days are 800 lbs/hr, 1,100 lbs/hr, 500 lbs/hr, 900 lbs/hr, and 1,200 lbs/hr, respectively. (This is a conservative example because the average of these emissions, 900 lbs/hr, is well over the 30-day average emission limit.) These emissions would result in daily maximum 1-hour concentrations of 80 ppb, 99 ppb, 40 ppb, 67.5 ppb, and 84 ppb. In this example, the fifth day would have an exceedance that would not otherwise have occurred, but the third and fourth days would not have exceedances that otherwise would have occurred. In this example, the fourth highest maximum daily concentration under the 30-day average would be 67.5 ppb.

This simplified example illustrates the findings of a more complicated statistical analysis that EPA conducted using a range of scenarios using actual plant data. As described in Appendix B of EPA's April 2014 SO_2 guidance, EPA found that the requirement for lower average emissions is highly likely to yield better air quality than is required with a comparably stringent 1-hour limit. Based on analyses described in appendix B of its 2014 guidance, EPA expects that an emission profile with maximum allowable emissions under an appropriately set comparably stringent 30-day average limit is likely to have the net effect of having a *lower* number of exceedances and better air quality than an emission profile with maximum allowable emissions under a 1-hour emission limit at the critical emission value. This result provides a compelling policy rationale for allowing the use of a longer averaging period, in appropriate circumstances where the facts indicate this result can be expected to occur.

The question then becomes whether this approach—which is likely to produce a lower number of overall exceedances even though it may produce some unexpected exceedances above the critical emission value—meets the requirements in sections 110(a)(1) and (2), 172(c)(1) and (6) for SIPs to contain enforceable emissions limitations and other control measures to ''provide for attainment'' of the NAAQS. For SO_2, as for other pollutants, it is generally impossible to design a nonattainment plan in the present that will guarantee that attainment will occur in the future. A variety of factors can cause a well-designed attainment plan to fail and unexpectedly not result in attainment, for example if meteorology occurs that is more conducive to poor air quality than was anticipated in the plan. Therefore, in determining whether a plan meets the requirement to provide for attainment, EPA's task is commonly to judge not whether the plan provides absolute certainty that attainment will in fact occur, but rather whether the plan provides an adequate level of confidence of prospective NAAQS attainment. From this perspective, in evaluating use of a 30-day average limit, EPA must weigh the likely net effect on air quality. Such an evaluation must consider the risk that occasions with meteorology conducive to high concentrations will have elevated emissions leading to exceedances that would not otherwise have occurred, and must also weigh the likelihood that the requirement for lower emissions on average will result in days not having exceedances that would have been expected with emissions at the critical emissions value. Additional policy considerations, such as in this case the desirability of accommodating real world emissions variability without significant risk of violations, are also appropriate factors for EPA to weigh in judging whether a plan provides a reasonable degree of confidence that the plan will lead to attainment. Based on these considerations, especially given the high likelihood that a continuously enforceable limit averaged over as long as 30 days, determined in accordance with EPA's guidance, will result in attainment, EPA believes as a general matter that such limits, if appropriately determined, can reasonably be considered to provide for attainment of the 2010 SO_2 NAAQS.

The April 2014 SO_2 guidance offers specific recommendations for determining an appropriate longer term average limit. The recommended method starts with determination of the 1-hour emission limit that would provide for attainment (*i.e.,* the critical emission value), and applies an adjustment factor to determine the (lower) level of the longer term average emission limit that would be estimated to have a degree of stringency comparable to the otherwise necessary 1-hour emission limit. This method uses a database of continuous emission data reflecting the type of control that the source will be using to comply with the SIP emission limits, which (if compliance requires new controls) may require use of an emission database from another source. The recommended method involves using these data to compute a complete set of emission averages, computed according to the averaging time and averaging procedures of the prospective emission limitation. In this recommended method, the ratio of the 99th percentile among these long term averages to the 99th percentile of the 1-hour values represents an adjustment factor that may be multiplied by the candidate 1-hour emission limit to determine a longer term average emission limit that may be considered comparably stringent.[2] The guidance also addresses a variety of related topics, such as the potential utility of setting supplemental emission limits, such as mass-based limits, to reduce the likelihood and/or magnitude of elevated emission levels that might occur under the longer term emission rate limit.

Preferred air quality models for use in regulatory applications are described in Appendix A of EPA's *Guideline on Air Quality Models* (40 CFR part 51, appendix W). In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 NAAQS is provided in appendix A to the April 2014 SO_2 guidance document referenced above. Appendix A provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in this guidance is generally necessary for the attainment demonstration to offer

[2] For example, if the critical emission value is 1,000 pounds of SO_2 per hour, and a suitable adjustment factor is determined to be 70 percent, the recommended longer term average limit would be 700 lbs/hr.

adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 1-hour primary SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, EPA believes that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases sources located outside the nonattainment area which may affect attainment in the area) is technically appropriate, efficient and effective in demonstrating attainment in nonattainment areas because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET. Estimated concentrations should include ambient background concentrations, should follow the form of the NAAQS, and should be calculated as described in section 2.6.1.2 of the August 23, 2010 clarification memo on ''Applicability of appendix W Modeling Guidance for the 1-hr SO_2 National Ambient Air Quality Standard'' (U.S. EPA, 2010a).

IV. Review of Attainment Plan Requirements

A. Emissions Inventory

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable states to: (1) Estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and (2) assess the expected improvement in air quality within the nonattainment area due to the adoption and implementation of control measures. As noted above, the State must develop and submit to EPA a comprehensive, accurate and current inventory of actual emissions from all sources of SO_2 emissions in each nonattainment area, as well as any sources located outside the nonattainment area which may affect attainment in the area. *See* CAA section 172(c)(3).

The primary SO_2-emitting point source located within the Sullivan County Area is Eastman, which produces organic acids, aldehydes, esters, polymers, cellulose esters, specialty plastics, and acetate fibers. The facility also produces process steam and electricity for most of the operations, including hazardous waste combustion, and wastewater treatment. Eastman consists of three main SO_2 emitting sources comprised of three powerhouses that include a total of 14 boilers and several smaller emitters:

- Powerhouse B–83 consists of Boilers 18–24, denoted B–18—B–24, which fire coal to provide steam for facility operations. Each of the seven emissions units has the following capacities: Boilers B–18—B–20 are rated at 246 million British thermal units per hour (MMBtu/hr); Boilers B–21—B–22 have a rated capacity of 249 MMBtu/hr; and Boilers B–23—B–24 have a rated capacity of 501 MMBtu/hr. All seven B–83 boilers have existing limits on SO_2 emissions of 2.4 lbs/MMBtu based on a 1-hour averaging period. Actual emissions from B–83 were 5,686 tons per year (tpy) in 2011.
- Powerhouse B–253 consists of units B–25—B–29 which fire coal to provide steam for facility operations. Each emissions unit, B–25—B–29 has a rated capacity of 655 MMBtu/hr and an existing limit on SO_2 emissions of 2.4 lbs/MMBtu based on a 24-hour averaging period. The B–253 powerhouse is currently undergoing a multi-year project to convert the power generation from the coal-fired boilers to natural gas-fired boilers to comply with regional haze best available retrofit technology (BART). *See* section IV.B.4.i for additional BART discussion. The result will be that the emissions units B–25—B–29 will fire only natural gas as repowered units start up and for all units no later than the attainment date for the 1-hour SO_2 NAAQS, October 4, 2018.[3] Actual emissions from B–253 were 14,897 tpy in 2011.
- Powerhouse B–325 consists of Boilers B–30 and B–31, which fire coal to provide steam for facility operations. Boiler B–30 has a rated capacity of 780 MMBtu/hr and an existing emission limit on SO_2 emissions of 317 lbs/hr based on a 30-day averaging period, equivalent to 0.406 lbs/MMBtu. Boiler B–31 is rated at 880 MMBtu/hr and has an existing limit on SO_2 emissions of 293 lbs/hr based on a 30-day averaging period, equivalent to 0.333 lbs/MMBtu. Actual emissions from B–325 were 1,276 tpy in 2011.
- The B–248 unit consists of three hazardous waste combustors, one liquid chemical waste incinerator and two rotary kilns that can burn solid or liquid chemical waste, B–248–2, Vent A, and B–248–1, Vents D and E, respectively. According to the attainment SIP submitted by TDEC in May 2017, each of these units is subject to an existing limit on SO_2 emissions for an exhaust concentration of 1,000 parts per million by volume SO_2, equivalent to 1,109 tpy for B–248–2, Vent A, and 1,552 tpy each for 248–1, Vents D and E. Actual emissions from B–248 were 7.3 tpy in 2011. On February 1, 2018, TDEC issued a revised title V permit (568496) that included additional SO_2 limits of 20 tpy for Vent A and 40 tpy for Vents D and E, combined.
- Eastman has 31 other smaller emission units that provide various services to other parts of the facility, and these units account for 194.56 tpy of the allowable emissions across the facility. Actual emissions from the remaining units were 40.9 tpy in 2011. For more information on these miscellaneous units, see the May 12, 2017, submittal.

The emissions at units for Eastman were recorded either by using data collected from CEMS or by material balances based on feed rates and other parameters and are quality-assured by TDEC.[4]

The next largest SO_2 source within the nonattainment area is the EnviraGlass, LLC glass manufacturing facility (EnviraGlass). SO_2 emissions from EnviraGlass were 49.3 tons in 2011, as determined from material balances. The EnviraGlass Kingsport facility consists of one main SO_2 emitter. The glass melting furnace #1 (GMF–1) fires natural gas and No. 2 fuel oil. The allowable permit limit for EnviraGlass of 39.6 lb/hr was included in the attainment modeling.

The next largest SO_2 source in Sullivan County is located just outside the Sullivan County Area boundary: Domtar Paper Company, LLC, Kingsport Paper Mill (Domtar). Domtar produces pulp and paper and is permitted to burn hog fuel, dry wood residue, engineered fuel, wastewater treatment plant sludge, fuel oil, and natural gas. SO_2 emissions from this facility were 70.8 tons in 2011, as determined from material balances.

[3] As mentioned elsewhere in this proposed action, four boilers have converted to exclusive use of natural gas for fuel combustion already. These repowered units have different heat capacities, and the fuel content is such that the actual emissions of SO_2 will always be much less than the formerly permitted rate.

[4] As detailed in Section IV. of this proposed action, CEMS will be installed for Powerhouse B–83. Therefore, all subsequent emissions inventories and all compliance assessments will be based on CEMS measurements.

The permitted allowable SO_2 emissions limit for the main SO_2 emissions unit at Domtar, the HFB1–1 biomass boiler, was included in the attainment modeling (264 lb/hr = 33.26 g/s). TDEC determined that the other SO_2 emissions units at Domtar did not need to be explicitly modeled because of their smaller emissions levels. Therefore, these sources were accounted for using the background concentration discussed in section IV.B.5 of this notice.

TDEC utilized EPA's 2011 National Emissions Inventory (NEI), Version 2 as the starting point for compiling point source emissions for the base year emissions inventory. The hazardous waste incinerators at Eastman in B–248 were erroneously reported as 20 tpy each for B–248–1 and B–248–2. TDEC corrected this information from the 2011 NEI with information submitted by Eastman.[5] EnviraGlass, formerly Heritage Glass, did not report emissions for the 2011 NEI, so TDEC used semiannual compliance reports pursuant to the title V operating permit for the facility to determine emissions.

TDEC also used the 2011 NEI, Version 2 to obtain estimates of the area and nonroad sources. For onroad mobile source emissions, TDEC utilized EPA's Motor Vehicle Emissions Simulator (MOVES2014). A more detailed discussion of the emissions inventory development for the Sullivan County Area can be found in Tennessee's May 12, 2017, submittal.

Table 1 below shows the level of emissions, expressed in tpy, in the Sullivan County Area for the 2011 base year by emissions source category. The point source category includes all sources within the nonattainment area.

TABLE 1—2011 BASE YEAR EMISSIONS INVENTORY FOR THE SULLIVAN COUNTY AREA

[tpy]

Year	Point	Onroad	Nonroad	Area	Total
2011	21,956.5	1.62	0.16	10.6	21,968.88

Domtar is not included in the base year inventory for the Sullivan County Area because it is outside of the boundary of the nonattainment area. However, TDEC evaluated 2011 emissions from this facility to evaluate its impact on the area. Domtar's emissions were reported for the 2011 NEI, but TDEC determined that emissions from HFB1–1, the biomass boiler, were initially reported in error as 2.06 tons. Actual emissions were determined from fuel usage data supplied by Domtar, leading to 44.1 tpy SO_2 emitted in 2011 from HFB1–1 and total facility-wide emissions of 70.8 tpy.[6]

EPA has evaluated Tennessee's 2011 base year emissions inventory for the Sullivan County Area and has made the preliminary determination that this inventory was developed consistent with EPA's guidance. Therefore, pursuant to section 172(c)(3), EPA is proposing to approve Tennessee's 2011 base year emissions inventory for the Sullivan County Area.

The attainment demonstration also provides for a projected attainment year inventory that includes estimated emissions for all emission sources of SO_2 which are determined to impact the nonattainment area for the year in which the area is expected to attain the standard. This inventory must address any future growth in the Area. Growth means any potential increases in emissions of the pollutant for which the Sullivan County Area is nonattainment (SO_2) due to the construction and operation of new major sources, major modifications to existing sources, or increased minor source activity. TDEC included a statement in its May 12, 2017 submittal declaring that the air agency assumes no growth of major sources in the Sullivan County Area, and that minor source growth should not significantly impact the Area. TDEC cites to its ''Growth Policy'' found at Tennessee Air Pollution Control Regulations (TAPCR) 1200–03–09–.01(5), which includes the nonattainment new source review (NNSR) program and the requirement for minor sources and minor modifications proposing to construct in a nonattainment area to apply BACT, approved into the SIP and last updated on July 30, 2012 (*see* 77 FR 44481). The NNSR program includes lowest achievable emissions rate, offsets, and public hearing requirements for major stationary sources and major modifications.

TDEC provided a future year projected emissions inventory for all known sources included in the 2011 base year inventory, discussed above, that were determined to impact the Sullivan County Area. The projected emissions are set to be accurate beyond October 1, 2018, when the control strategy for the attainment demonstration will be fully implemented. Therefore, as an annual future year inventory, the point source portion is accurate beyond October 1, 2018, and would represent an annual inventory for 2019 or beyond. The projected emissions in Table 2 are estimated actual emissions, representing a 67.6 percent reduction from the base year SO_2 emissions. The point source emissions were estimated by taking credit for the control strategy to repower the boilers at B–253 and assuming actual emissions at other Eastman units would remain the same as in 2011. Additionally, EnviraGlass has not operated in recent years, and TDEC includes a statement in its May 12, 2017 submittal that as of February 2017, the source had not resumed its operations. Therefore, EnviraGlass emissions were projected as zero tpy. If this source began operation again, actual emissions would be much less than those from Eastman (~50 tpy), and would be reported in future inventories.

Per EPA's April 2014 SO_2 guidance, the existing allowable emissions limits and the new 30-day, combined emission limit (see section IV.B.4) that TDEC is requesting EPA approve into the SIP, were modeled to show attainment. These projected actual emissions included in the future year inventory are less than the allowable emission limits, and therefore offer a greater level of certainty that the NAAQS will be protected under all operating scenarios. Emissions estimates for onroad sources were re-estimated with MOVES2014. The nonroad emissions were projected using national growth factors, and area source emissions were scaled based on emission factors developed using the Annual Energy Outlook 2014 for consumption and production forecasts. Both categories were then apportioned to the nonattainment area based on

[5] For more information on this correction to the 2011 NEI, Version 2 emissions, see Attachment A of Tennessee's May 12, 2017, submittal.

[6] For more information on this correction to the 2011 NEI, Version 2 emissions, see Table 3–8 of the May 12, 2017, submittal.

population in the nonattainment area relative to that of Sullivan County.[7]

TABLE 2—PROJECTED 2018 SO_2 EMISSIONS INVENTORY FOR THE SULLIVAN COUNTY AREA

[tpy]

Year	Point	Onroad	Nonroad	Area	Total
2011	21,956.5	1.62	0.16	10.6	21,968.88
2019	7,104.5	0.64	0.006	10.521	7,115.67

B. Attainment Modeling Demonstration

Eastman operates a large manufacturing facility in Kingsport that includes major SO_2 sources with the potential to emit greater than 100 tons per year (tpy) of SO_2. The SO_2 emissions come from three main boiler groups B–83, B–253 and B–325. Powerhouse B–253 serves five boilers (Boilers 25–29), each with an individual stack, that provide steam and electricity to the facility. Powerhouse B–325 serves two coal-fired boilers that vent to a single stack (Boiler 30 and Boiler 31). Boiler 30 is equipped with a spray dryer absorber and electrostatic precipitator to control particulate matter and acid gases. Boiler 31 is equipped with a spray dryer absorber and fabric filter to control particulate matter and acid gases. Powerhouse B–83 serves seven boilers; five coal-fired boilers (Boilers 18–22) venting to a single stack, and two coal-fired boilers (Boilers 23 and 24) that also burn wastewater treatment sludge, venting to a single stack.

These boilers, along with three other backup natural gas-fired boilers with minimal SO_2 emissions (B–423), provide process steam and most of the electrical power needed to supply Eastman's operations. The combination of boilers and boiler operating loads at any given time depends on manufacturing demands along with availability of boilers, as each boiler has annual scheduled shutdowns. The following discussion evaluates various features of the modeling that Tennessee used in its attainment demonstration.

1. Model Selection

Tennessee's attainment demonstration used AERMOD, the preferred model for this application, and the associated pre-processor modeling programs. The State used the 16216r version of AERMOD with regulatory default options and urban dispersion coefficients.[8] Receptor elevations and hill heights required by AERMOD were determined using the AERMAP terrain preprocessor version 11103. The meteorological data was processed using AERMET version 16216 with the regulatory adjusted U* option. The surface characteristics around the meteorological surface station were determined using AERSURFACE version 13016 and building downwash was assessed with the BPIP processor (version 04274). EPA proposes to find these model selections appropriate for the attainment demonstration.

2. Meteorological Data

The Sullivan County nonattainment area is in a wide valley surrounded by complex terrain ridges. Eastman evaluated available surface meteorological data in the area and determined that none of nearby National Weather Surface (NWS) stations in area were representative of the site-specific winds that occur in the nonattainment area valley. Therefore, Eastman installed and operated a site-specific 100-meter meteorological data tower and Doppler SODAR system to collect profiles of meteorological data (wind speed, wind direction, temperature). One year of site-specific data was collected from April 1, 2012 through March 31, 2013.[9] EPA has reviewed the site-specific meteorological data and has preliminarily determined that the data meets the quality assurance criteria and the 1-year of data is appropriate for the modeling analysis. Site-specific turbulence parameters (sigma-theta and sigma-w) were also collected. However, as recommended in the December 2016 final revisions to the EPA's Guideline on Air Quality Models, contained in 40 CFR part 51, appendix W (Appendix W), since Eastman chose to use the adjusted U* (surface friction velocity) regulatory option in AERMET, the site-specific turbulence parameters were not used. The data from the 100-meter tower and Doppler SODAR were merged with concurrent additional NWS surface data parameters needed by AERMOD (*e.g.,* cloud cover data) from the Tri-City Regional Airport National Weather Station (13877) and upper air data from Nashville, TN (13897).

The surface roughness (zo), albedo (r), and Bowen ratio (Bo) required surface parameters were determined for the area around the site-specific meteorological surface station using AERSURFACE version 13016. Eastman processed the meteorological data and surface parameters into AERMOD-ready files using AERMET version 16216 with the regulatory adjusted U* option. Complete details of the meteorological data collection and processing are available in sections 3.1–3.8 of Attachment G1, ''NAAQS Attainment Demonstration Modeling Analysis,'' in Tennessee's final SIP submittal. EPA preliminarily finds that the meteorological data collection and processing is appropriate for the modeled attainment demonstration.

3. Emissions Data

The emission inputs to Tennessee's attainment demonstration modeling reflect 1-hour emissions that correspond to allowable emissions from sulfur dioxide emission units at the Eastman facility and other nearby emissions sources located within and outside the

[7] For more information, see Attachments A–D of the May 12, 2017, submittal.

[8] Tennessee and Eastman determined that urban dispersion coefficients are appropriate for the modeling analysis based upon an assessment of land use within a 3-kilometer radius of the Eastman boiler stacks using the Auer technique contained in Section 7.2.1.1.b.i of 40 CFR part 51, appendix W. The analysis resulted in 52.4 percent of the area being classified as urban land use categories, which is above the 50 percent criteria for using urban dispersion coefficients. Additionally, Tennessee and Eastman performed an analysis to estimate an effective population for the urban option to account for the large industrial heat release at the Eastman facility. The results of this analysis yield an effective population of 200,000, which is approximately four times the approximate 50,000 population of Kingsport, Tennessee. The complete details of Tennessee and Eastman's analysis are discussed in Section 4.1 of Attachment G1, ''NAAQS Attainment Demonstration Modeling Analysis,'' in Tennessee's final SIP submittal. EPA preliminarily agrees that urban dispersion coefficients with an effective population of 200,000 is appropriate for the modeling, and believes the procedures to estimate the effective population are appropriate.

[9] Pursuant to Section 8.4.2.e of 40 CFR part 51, appendix W, if site-specific meteorology is used for the modeling analysis, at least 1-year of site-specific data should be collected. The data should meet the quality assurance criteria in EPA's 2000 ''Meteorological Monitoring Guidance for Regulatory Modeling Applications.'' Publication No. EPA–454/R–99–005. Office of Air Quality Planning and Standards, Research Triangle Park, NC. (NTIS No. PB 2001–103606).

Sullivan County nonattainment area. Eastman's modeled emissions sources include nine coal-fired boilers, five natural gas boilers that were converted from coal-fired to natural gas-fired units, and a tail-gas incineration unit. Although the limit on emissions from Eastman governs the 30-day average sum of emissions from all nine coal-fired boilers, Tennessee conducted modeling using a constant hourly rate (the 1,905 lb/hr 1-hour CEV), as recommended by EPA's April 2014 SO_2 guidance. As discussed in more detail in section IV.B.6 below, Tennessee has conducted 34 modeling runs using a full range of emission distributions, to show that the limit ensures attainment, regardless of how emissions are distributed among the various boilers within this limit. In addition, Tennessee used the statistical procedures recommended in Appendix C of EPA's guidance to establish an adjustment factor that it applied to determine the limit it would otherwise have set.

Two additional SO_2 emissions sources, EnviraGlass, located within the nonattainment area, and Domtar Paper, located just outside the nonattainment area, were also included in Tennessee's attainment demonstration modeling, modeled at their hourly emission limits. Additional details regarding the emissions units are included in the Emissions Inventory, section IV.A., of this proposed rule and section 2 of Attachment G1, ''NAAQS Attainment Demonstration Modeling Analysis,'' in Tennessee's final SIP submittal. EPA proposes to find that the emissions sources included in the modeling are appropriate for the attainment demonstration. All other sources not explicitly included in the modeling were addressed using the background concentration discussed in section IV.B.5 of this notice.

4. Emission Limits

An important prerequisite for approval of an attainment plan is that the emission limits that provide for attainment be quantifiable, fully enforceable, replicable, and accountable. *See* General Preamble at 13567–68. Some of the limits that Tennessee's plan relies on are expressed as 30-day average limits. Therefore, part of the review of Tennessee's attainment plan must address the use of these limits, both with respect to the general suitability of using such limits for this purpose and with respect to whether the limits included in the plan have been suitably demonstrated to provide for attainment. The first subsection that follows addresses the enforceability of the limits in the plan, and the second subsection that follows addresses the combined, 30-day emission limit for Boilers 18–24, 30 and 31. Sections IV.B.6 and 7 discuss the modeling conducted to demonstrate that the limit of combined emissions of these boilers suitably provides for attainment.

i. Enforceability

Section 172(c)(6) provides that emission limits and other control measures in the attainment SIP shall be enforceable. Tennessee's attainment SIP for the Sullivan County nonattainment area relies on control measures and enforceable emission limits for Powerhouses B–253, B–83 and B–325 (for more discussion on these boilers, please refer to section IV.A above). These emission reduction measures were accounted for in the attainment modeling for the Eastman facility which demonstrates attainment for the 2010 NAAQS.

Tennessee's control strategy for B–253 relies on compliance with the State's Regional Haze SIP to install BART for SO_2 and other pollutants that impair visibility at Class I areas. TDEC's original April 4, 2008, regional haze SIP identified B–253 (Boilers 25–29) at Eastman Chemical as BART-eligible units.[10] Tennessee subsequently amended its regional haze SIP (May 14, 2012 and May 25, 2012) to establish BART requirements for Eastman including an alternative BART option to repower (convert coal-fired boilers to natural gas) Boilers 25–29 at B–253 by December 31, 2018.[11] The alternative BART measure became federally-enforceable through the issuance of BART permit 066116H on May 9, 2012, and an amendment on May 22, 2012, which changed the conversion completion date to align with the 1-hour SO_2 NAAQS compliance deadline of October 4, 2018 (Condition 4(f)).[12] Tennessee issued construction permit 966859F on June 15, 2013, authorizing construction of the B–253 boilers conversion to natural gas. Condition 6 of Permit 966859F establishes a natural gas fuel restriction after conversion is complete for each boiler.

In conjunction with the natural gas conversion control strategy at B–253, Tennessee also established a 30-day combined SO_2 emission limit for nine coal-fired boilers at B–83 (seven boilers) and B–325 (two boilers) pursuant to EPA's April 2014 SO_2 guidance on longer term average limits (see section IV.B.4.ii below). Tennessee established a single, combined 30-day rolling average of 1,753 lbs/hr SO_2 emission limit through Permit 070072F on May 10, 2017, for Boilers 18–24 at B–83 and Boilers 30–31 at B–325. Boilers 30 and 31 at B–325 also have existing individual SO_2 emission limits of 317 lbs/hr and 293 lbs/hr, respectively, based on a 30-calendar day rolling average.[13] Eastman must comply with the combined 30-day limit for the 30-day period ending on October 31, 2018 [14] and each 30-day period thereafter. Therefore, Eastman must begin to comply with the new limit no later than October 2, 2018. Compliance will be determined based on continuous emission monitoring system (CEMS) data for all nine boilers. EPA provides additional details, section IV.B.4.ii below, regarding how the combined 30-day SO_2 emission limit was derived. The enforceable emission limit and compliance parameter ensure control measures will achieve the necessary incremental SO_2 emissions reductions necessary to attain the NAAQS as expeditiously as practicable. Based on

[10] A BART-eligible source is an emission source that has the potential to emit 250 tons or more of a visibility-impairing pollutant, was constructed between August 7, 1962 and August 7, 1977, and whose operations fall within one or more of 26 listed source categories. The Clean Air Act requires BART for any BART-eligible source that a State determines ''emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area.'' EPA finalized a limited approval/limited disapproval of portions of Tennessee's April 4, 2008, regional haze SIP on April 24, 2012 (77 FR 24392). The April 4, 2008, SIP established the State's plan to comply with federal requirements to ensure natural visibility conditions at Class I areas by requiring affected sources to install BART for SO_2 and other visibility-impairing pollutants.

[11] Tennessee's initial Eastman BART determination required Eastman to reduce SO_2 emissions at Boilers 25–29 either by 92 percent or comply with a limit of 0.20 lbs/MMBtu established through the BART permit (066116H). EPA approved Eastman's BART determination, the alternative BART option and permit 066116H on November 27, 2012 (77 FR 70689).

[12] Condition 4(f) also prohibits operation of any B–253 boiler not converted after the October 2018 SO_2 NAAQS compliance date until repowered to natural gas.

[13] Established in construction Permit 955272F, Boiler 30 has a 317 lbs/hr 30-day SO_2 limit and Boiler 31 has a 293 lbs/hr 30-day SO_2 limit, giving B–325 an allowable limit of 610 lbs/hr on a 30-day average.

[14] EPA's April 2014 SO_2 guidance recommends that attainment plans provide for compliance at least one calendar year prior to the attainment deadline, to facilitate collection of air quality monitoring data reflecting attainment plan implementation. This air quality data would indicate whether the attainment plan is in fact successfully providing for attainment. Nevertheless, the guidance also notes that EPA has the discretion to approve plans that are judged to provide for attainment by the statutory attainment deadline, even if the monitoring data collected prior to the attainment deadline are judged to indicate that that plan has not yielded timely attainment. EPA believes that Tennessee's attainment plan provides for attainment, notwithstanding the possibility that subsequent review of available monitoring data may support a conclusion that the plan did not in fact provide for timely attainment.

the attainment modeling of B–253 repowering combined with the 30-day SO_2 emission limits for B–83 and B–325, the area is projected to begin showing attaining monitoring design values.

Tennessee's May 11, 2017, attainment SIP requests EPA approve into the SIP the authorization for alternative BART repowering of Boilers 25–29 at B–253 at Condition 4(f) of Regional Haze permit 066116H [15] (approved into Tennessee's regional haze SIP on November 12, 2012), natural gas fuel restriction for Boilers 25–29 (after each natural gas conversion) at Condition 6 of PSD construction permit 966859F, and the 30-day rolling single, combined SO_2 emission limit of 1,753 lbs/hr for boilers at B–83 and B–325 at Conditions 1 through 4 [16] of permit 070072F, which also include compliance parameters (monitoring, recordkeeping and reporting). The accountability of the SO_2 emission limit is established through TDEC's inclusion in the nonattainment SIP and in the attainment modeling demonstration to ensure permanent and enforceable emission limitations as necessary to provide for attainment of the 2010 SO_2 NAAQS.

ii. Longer Term Average Limits

Tennessee has developed a single, combined emission limit of 1,753 lbs/hr of SO_2 emissions on a 30-day average basis. This emission limit applies to nine coal-fired boilers, which emit SO_2 from three separate stacks from powerhouses B–83 and B–325. These nine coal-fired boilers help provide both steam and electricity for the Eastman facility and Boilers 23 and 24 (at B–83) also burn wastewater treatment sludge. Based on the unique, interconnected operations and the steam demand for the Eastman facility, Tennessee elected to establish a single, combined emission limit governing the sum of emissions from these nine boilers. Tennessee concluded that the NAAQS will be attained so long as total hourly emissions from these nine boilers are at or below 1,905 lbs/hr. Tennessee based this conclusion on a set of 34 modeling runs, which encompassed several ''worst-case'' emissions scenarios. These scenarios and the modeling results are described in detail in section IV.B.6 of this notice. EPA ordinarily uses the term critical emissions value (CEV) to mean the 1-hour emission rate for an individual stack that, in combination with the other CEVs for other relevant stacks, the state shows through proper modeling to yield attainment. However, in this case, EPA is using the term CEV to mean the total emissions from all nine Eastman coal-fired boilers emitting from three stacks that Tennessee has shown to yield attainment, reflecting Tennessee's approach of evaluating an appropriate limit on the sum of these emissions.

After establishment of this combined-source CEV, Tennessee used the procedures recommended in Appendix C of EPA's April 2014 SO_2 guidance to determine an adjustment factor with which to establish a single, combined emission limit with a longer term averaging time (30-day). Tennessee analyzed three years of historical hourly emissions data (2013–2015) from the nine boilers in question. Tennessee used the sum of emissions from the nine boilers in this analysis, determining a 99th percentile of the 1-hour total emissions values and a 99th percentile of the 30-day average total emission values. The ratio of these 99th percentile values yielded an adjustment factor of 0.92. Multiplication of this adjustment factor times the collective CEV yielded a 30-day average limit of 1,753 lbs/hr. EPA believes that Tennessee, by following the approach recommended in Appendix C of the April 2014 SO_2 guidance, has justified a conclusion that this 1,753 lbs/hour limit (governing the sum of emissions from the nine boilers) may be considered comparably stringent to a 1-hour limit of 1,905 lbs/hr (again governing the sum of emissions from the nine boilers). Since the emission limit being established for these nine boilers is a single, combined limit, EPA believes it is appropriate for the adjustment factor also to be computed based on the total combined emissions from the nine boilers. Therefore, EPA proposes to agree that the adjustment factor of 0.92 is appropriate in this case.

EPA's April 2014 SO_2 guidance further states, ''The second important factor in assessing whether a longer term average limit provides appropriate protection against NAAQS violations is whether the source can be expected to comply with a longer term average limit in a manner that minimizes the frequency of occasions with elevated emissions and magnitude of emissions on those occasions.'' The guidance advises that the establishment of supplemental limits to provide direct constraints on the frequency and/or magnitude of emissions exceeding the CEV can be valuable, but the guidance also acknowledges the possibility that occasions of emissions exceeding the CEV may be rare and modest in magnitude even without supplemental enforceable limitations. Tennessee concluded that occasions of emissions exceeding the critical emissions would be infrequent and modest in magnitude even without adoption of supplemental limits. EPA conducted its own evaluation of whether this element of the guidance is satisfied, such that compliance with Tennessee's 30-day average emission limit would provide adequate confidence that the area will attain the standard.

The historical emissions data do not provide a direct measure of the frequency and magnitude of elevated emissions to expect once Eastman complies with the 30-day limit. The historical Eastman emissions data that Tennessee used is from a period in which emissions frequently were higher than the new limit. During the 2013 to 2015 period, Eastman's total emissions exceeded the subsequently adopted limit (1,753 lbs/hr) in approximately 32.4 percent of 30-day averages, and exceeded the 1-hour CEV (1,905 lbs/hr) in approximately 21.5 percent of hours. Thus, Eastman will be required to make emission reductions sufficient to comply with the new 30-day limit (1,753 lb/hr), which would both eliminate the occasions of 30-day average emissions above 1,753 lbs/hr and reduce the number and possibly eliminate the occasions when 1-hour emission levels exceed 1,905 lbs/hr. The question then is how frequently and with what associated emission levels can 1-hour emissions levels be expected to exceed the CEV once Eastman complies with the 30-day average limit.

Since Tennessee has permitted a combined, multi-stack emission limit (1,753 lb/hr) for the nine coal-fired boilers, there are multiple compliance scenarios possible. Consequently, there is also a range of frequencies that the hourly emissions can exceed the CEV while still meeting the 30-day permit limit. To forecast the frequency and magnitude of emissions of occasions with emissions above the CEV, EPA asked Tennessee for information regarding how Eastman expects to comply with the new limit. Tennessee responded [17] that Eastman's compliance strategy will likely be to modify the order of dispatch of the nine boilers in question, dispatching Boilers 18 through 22 from Powerhouse B–83 less often in the future, in particular by reducing the dispatching of the smaller coal-fired boilers (Boilers 18, 19, and 20) in favor

[15] EPA notes condition 4(f) was approved into Tennessee's SIP on November 12, 2012 as part of the State's Regional Haze SIP. *See*77 FR 70689.

[16] In Tennessee's SO_2 attainment SIP (page 33) the state requested EPA approve Conditions 1–5 from Permit 070072F however, EPA notes only four conditions were included in the final issued permit.

[17] See emails from TDEC to EPA Region 4 dated January 26 and February 8, 2018.

of greater operation of the larger boilers that are being converted to burn natural gas.[18] These smaller boilers are the oldest and least efficient boilers of the nine and provide only low pressure steam to the facility. EPA used this information provided by Tennessee and the less efficient nature of these boilers and further analyzed the historical (2013 to 2015) emissions. Given the order of preference in boiler dispatch provided by Tennessee and efficiency considerations, EPA expects that three boilers (B–18 to B–20) may be operated at approximately 20 percent of their historical rates. This level of operation for these boilers would yield compliance with the new limit and allow Eastman to meet its steam generation needs. With that level of operation of those boilers, the number of occasions of total plant emissions exceeding the CEV was found to be 1.1 percent of the hours, with these hours on average being 4.4 percent above the CEV.[19] During EPA's analyses, we found that the frequency of emissions over the CEV could range from 1 to 10 percent of the time, depending on the operational scenario used to comply with the 30-day limit. While EPA acknowledges the uncertainty in forecasting the frequency of elevated emissions and the magnitude of emissions on those occasions, based on the information received from Tennessee and our own analysis, EPA believes that emissions at Eastman are unlikely to exceed the CEV more than a few percent of the hours, at levels generally only a modest percent over the CEV. Compliance with the 30-day limit will be ensured using a CEMS and appropriate monitoring, recordkeeping and reporting requirements. Consequently, EPA proposes to conclude that the second criterion for use of longer term average limits is satisfied, even without supplemental limits to constrain the frequency and emissions level of occasions when emissions exceed the CEV.

Based on a review of the State's submittal, EPA believes that the single, combined 30-day average limit for the nine boilers in Powerhouses B–83 and B–325, in conjunction with the existing individual 30-day average limits for Boilers B–30 and B–31, provides a suitable alternative to establishing a 1-hour average emission limit for each unit or for the collected units at this source. Further discussion of Tennessee's modeling analysis of its set of limits, along with discussion of pertinent considerations in applying the procedures of Appendix C of EPA's guidance in determining appropriate longer term limits, is provided in section IV.B.6 below. In summary, EPA believes that the State has used a suitable data base in an appropriate manner and has thereby applied an appropriate adjustment, yielding an emission limit that has comparable stringency to the 1-hour average limit that the State determined would otherwise have been necessary to provide for attainment. While the 30-day average limit allows for occasions in which emissions may be higher than the level that would be allowed with the combined-unit 1-hour limit, the State's limit compensates by requiring average emissions to be lower than the level that would otherwise have been required by a 1-hour average limit. As described above in this section, in section III and explained in more detail in EPA's April 2014 SO_2 guidance for nonattainment plans, EPA believes that appropriately set longer term average limits provide a reasonable basis by which nonattainment plans may provide for attainment. Based on the general information provided in this guidance document as well as the information in Tennessee's attainment SIP, EPA proposes to find that the 30-day average limit for Eastman's nine boilers in combination with other limitations in the State's plan will provide for attainment of the NAAQS.

5. Background Concentration

In accordance with section 8.3 of 40 CFR part 51, appendix W, Tennessee's attainment demonstration addresses the impacts from all SO_2 emissions sources not explicitly included in the AERMOD modeling analysis by adding representative background concentrations to the impacts from the modeled sources. The State and Eastman chose to use 2013–2015 ambient monitoring data from a sulfur dioxide monitor located at Mammoth Cave National Park in Kentucky (AQS ID 21–061–0501) to develop ''seasonal by hour of the day'' background concentrations. The hourly concentrations range from 2.79 to 18.51 micrograms per cubic meter ($\mu g/m^3$). The complete details of the background concentrations are described in section 3.9 of Attachment G1 of the Tennessee's Attainment Demonstration submittal. EPA preliminarily finds use of the Mammoth Cave background data is appropriate for the attainment modeling analysis.

6. Analysis of Multi-Stack Limit

The use of a limit governing the sum of emissions from multiple stacks, in lieu of individual limits for each stack, calls for a demonstration that the worst-case distribution of these emissions provides for attainment. To provide this demonstration, Tennessee conducted thirty-four (34) AERMOD modeling runs using varying combinations of boiler load and emissions scenarios for the nine coal-fired boilers to verify that the modeling includes the worst-case operational scenarios allowed under the single, thirty-day rolling average, emissions limit of 1,753 lbs/hr for the nine coal-fired boilers. The 34 modeling scenarios were performed to derive the single, combined 1,905 lbs/hr CEV for the nine coal-fired boilers (two stacks at the B–83 Powerhouse and one stack at the B–325 Powerhouse) that results in modeled attainment of the NAAQS. As defined in EPA's April 2014 SO_2 guidance, the CEV is the level of emissions that results in modeled concentrations that are just below the level of the NAAQS; as noted above, this term is being applied to the combination of emissions from the nine coal-fired boilers referenced earlier in the notice.

With these 34 AERMOD modeling runs, Tennessee and Eastman evaluated a wide range of future potential operational scenarios, considering boiler steam load demands for Eastman's production processes and boiler load-shifting that is projected to occur once the conversion of the five coal-fired boilers at B–253 (Boilers 25–29) from burning coal to natural gas is completed by October 2018. Based upon this evaluation, 34 operational scenarios were selected by Tennessee and Eastman for the CEV modeling analysis. Four of these 34 operation scenarios reflected all of the SO_2 being emitted from a single stack, including two scenarios where all of the 1,905 lbs/hr is released from one or the other of the two B–83 stacks individually, one scenario where the B–325 stack emitted 726 lbs/hr[20] (which is the one hour equivalent to the current permitted, federally enforceable allowable

[18] Tennessee's analysis in the February 8 email confirmed that, under the new combined limit, there should be adequate capacity available at natural gas boilers at B–253 and B–423, without the need to revise existing permit limits for these individual units.

[19] The email correspondence with TDEC and supporting documentation (including Tennessee's spreadsheet data and EPA's spreadsheet used for these calculations) are in the docket (ID: EPA–R04–OAR–2017–0626) for this proposed rule.

[20] Established in PSD Permit 955272F, Boiler 30 has a 317 lbs/hr 30-day SO_2 limit and Boiler 31 has a 293 lbs/hr 30-day SO_2 limit, giving B–325 an allowable limit of 610 lbs/hr on a 30-day average. For the purposes of modeling, Eastman calculated an adjustment factor specific to the B–325 stack in accordance with the methods of Appendix C of EPA's guidance. Eastman calculated an adjustment factor of 0.84, which yielded a corresponding one-hour emission rate of 726 lbs/hr.

emissions limit for B–325), and one scenario where the B–325 stack emitted 1,800 lbs/hr to simulate a B–325 worst-case emissions scenario. The modeled predicted concentrations from the three single-stack scenarios with permissible emission levels ranged from 89.08 µg/m^3 to 182.7 µg/m^3; the scenario with B–325 emitting 1,800 lbs/hr, well above its permissible level, yielded an estimated highest concentration of 190.8 µg/m^3. Nine modeling scenarios were performed to evaluate emissions from various combinations when two of the three stacks are in operation. For these scenarios, the 1,905 lbs/hr CEV rate was divided between the two stacks in multiple combinations to represent reasonable potential worst-case future operations. The modeled predicted concentrations from the nine two-stack scenarios range from 171.6 µg/m^3 to 190.5 µg/m^3, with the highest value of 190.5 µg/m^3 resulting from a scenario when the Boilers 18–22 B–83 stack was emitting at the highest level near its maximum capacity (1,039 lbs/hr), the Boilers 23–24 B–83 stack was emitting near its average rate (866 lbs/hr), and Boilers 30–31 were not operating (0 lb/hr). Twenty-one modeling scenarios were performed to evaluate simultaneous operation of all three stacks. As with the two-stack scenarios, the 1,905 lbs/hr critical value emissions rate was divided among the three stacks in multiple combinations to represent reasonable potential worst-case future operations. The modeled predicted concentrations from the twenty-one three-stack scenarios range from 186.0 µg/m^3 to 195.37 µg/m^3. The maximum model predicted concentration from the three-stack scenarios, which is also the maximum for all 34 scenarios, 195.37 µg/m^3, occurred in the three-stack operational scenario that assumes the majority of the emissions came from the Boilers 18–22 B–83 stack emitting near its maximum capacity (1,133 lbs/hr), emissions were slightly below normal from the Boilers 23–24 B–83 stack (719 lbs/hr), and emissions were low from the B–325 stack (53 lbs/hr, as Boiler 30 was assumed to not be operating and Boiler 31 operating under minimal load). Tables which summarize the emissions and modeling input parameters for each of the 34 scenarios and additional details about the full range of scenarios are contained in the State's modeling analysis in sections 7.11 and 7.12 of the State's Attainment Demonstration Submittal and section 5 of Attachment G1, ''NAAQS Attainment Demonstration Modeling Analysis,'' in Tennessee's final SIP submittal.

As noted earlier, in calculating the adjustment factor to multiply times the collective CEV (the 1-hour sum of emissions providing for attainment in the full range of distribution of the emissions) to determine a comparably stringent collective 30-day emission limit, Tennessee used statistics for the sum of emissions from all the stacks governed by this limit. EPA's guidance does not expressly recommend how to address comparable stringency for limits that address the sum of emissions across multiple stacks. However, EPA's guidance at page 32 states:

> The selection of data handling procedures influences the longer term averages that are computed and thus influences the relationship between a 1-hour limit and a comparably stringent longer term average limit. Therefore, . . . all analyses for determining comparably stringent longer term average limits should then apply those data handling procedures.

This suggests that the computation of adjustment factors for a limit governing the sum of emissions from multiple stacks should be based on statistical analysis of the variability of the sum of emissions from the multiple stacks, irrespective of the variability of emissions from the individual stacks. In the case of Eastman, while the facility shifts load among its various boilers, resulting in relatively variable emissions at any boiler, the total load is relatively steady, resulting in only modest variability of total emissions. As a result, use of a 30-day limit makes less difference in the control measure needed to meet the limit, and so less adjustment is needed to establish a 30-day limit that is comparably stringent to the corresponding 1-hour limit. Given the demonstration that the full range of potential distributions of 1,905 lb/hr provides for attainment, EPA also believes that a 30-day average limit of 1,753 lb/hr provides suitable assurance that attainment would result under the full range of distribution of these allowable emissions.

7. Summary of Modeling Results

The AERMOD modeling analysis contained in Tennessee's Attainment Demonstration submittal resulted in a maximum modeled design value of 195.37 µg/m^3, including the background concentration, which is less than the 196.4 µg/m^3 (75 ppb) 1-hour sulfur dioxide NAAQS.

EPA has evaluated the modeling procedures, inputs and results and proposes to find that the results of the State's modeling analysis demonstrate that there are no modeled violations of the NAAQS within the nonattainment area when the combined emissions from the nine coal-fired boilers are no greater that the 1,905 lbs/hr CEV. Additionally, EPA proposes to find that the 34 modeling scenarios are adequate to address the range of possible future operating scenarios of the boilers at the Eastman facility and, therefore, support that the 1,905 lbs/hr combined CEV is appropriate. Section IV.B.4.ii. of this notice explains how Tennessee and Eastman developed the 1,753 lbs/hr 30-day rolling average permit limit following the procedures in EPA's April 2014 SO_2 guidance.

C. RACM/RACT

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT) and shall provide for attainment of the NAAQS. EPA interprets RACM, including RACT, under section 172, as measures that a state determines to be reasonably available and which contribute to attainment as expeditiously as practicable for existing sources in the area.

Tennessee's plan for attaining the 1-hour SO_2 NAAQS in the Sullivan County SO_2 nonattainment area is based on several measures, including repowering the B–253 boilers from coal to natural gas operation. Tennessee's plan requires compliance with these measures by October 1, 2018. This date is consistent with Tennessee's Regional Haze SIP, which was amended on May 9, 2012. The amended SIP allowed Eastman to implement BART no later than April 30, 2017, or an alternative BART option (repowering of the boilers from coal to natural gas) by December 31, 2018. The alternative BART option became federally enforceable with the issuance of BART permit 066116H on May 9, 2012. A prevention of significant deterioration (PSD) construction permit (966859F), which authorizes construction for the boiler repowering, was issued June 5, 2013. Condition 4(f) of permit 066116H requires the repowering of B–253 to be completed no later than the compliance deadline for the one-hour SO_2 NAAQS. Also, Tennessee evaluated B–325 Boiler 31, and determined that the spray dryer absorber/fabric filter baghouse combination already in place constitutes RACT, and that therefore no further analysis is required.

Tennessee considered various other measures for the remaining B–83 and B–325 boilers. The State evaluated a range of measures to reduce SO_2 emissions,

including switching to low-sulfur coal, upgraded or additional control equipment, conversion of existing coal-fired boilers to natural gas, and replacing existing coal-fired boilers with natural gas boilers. Tennessee determined that these other measures are not reasonable for a variety reasons, including infeasibility and cost, and that they were not needed to attain the NAAQS and would not advance the attainment date. See Table 5–2 in the submittal for additional details on the measures analyzed. In addition, Tennessee evaluated other operations at Eastman as well as additional sources within and adjacent to the nonattainment area and determined that no additional controls were required as RACT.

Tennessee has determined that repowering B–253 to natural gas constitutes RACT and EPA proposes to concur with the state's RACT analysis. Based on the attainment modeling, described herein, for the B–253 control measures combined with the 30-day SO_2 emission limit for B–83 and B–325, the area is projected to show attainment of the 1-hour SO_2 standard. EPA believes the attainment plan provides for attainment through the adoption and implementation of Tennessee's RACT/RACM emission control strategy. Therefore, EPA proposes to conclude that the state has satisfied the requirement in section 172(c)(1) to adopt and submit all RACM as needed to attain the standards as expeditiously as practicable.

D. New Source Review (NSR)

Tennessee's SIP-approved NSR rules for nonattainment areas (NNSR) are at TAPCR 1200–03–09–.01(5), last approved by EPA on July 30, 2012. *See* 77 FR 44481. These rules provide for appropriate NSR for SO_2 sources undergoing construction or major modification in the Sullivan County Area without need for modification of the approved rules. Therefore, EPA proposes to conclude that this requirement is met for this Area through Tennessee's existing NSR rules.

E. Reasonable Further Progress (RFP)

The CAA section 172(c)(2) requires the SIP provide reasonable further progress towards attainment of the applicable NAAQS. Regarding part D nonattainment plans, section 171(1) of the CAA defines RFP as the annual incremental reduction in emissions of the relevant pollutant as are required for the purpose of ensuring attainment of the applicable NAAQS by the applicable date. As discussed above, Tennessee's 2008 regional haze SIP required Eastman implement BART at B–253 (Boilers 25–29). The State revised its SIP to establish an alternative BART option to repower/convert all five coal-fired boilers at B–253 to natural gas units and changed the compliance deadline to the 1-hour SO_2 NAAQS attainment date or October 4, 2018.[21] TDEC and Eastman indicated that the size and complexity of the repowering required additional time to ensure the conversion was technically feasible. Tennessee's control strategy to reduce SO_2 emission and attain the 2010 standard as expeditiously as practicable include the repowering of the five coal-fired boilers at B–253 and imposing an SO_2 emission limit for the nine coal-fired boilers for B–83 and B–325. Eastman established a repowering timeline for B–253 listed in Table 3 below and in Tennessee' SO_2 attainment SIP.

TABLE 3—ESTIMATED COMPLIANCE SCHEDULE FOR B–253 REPOWERING

Boiler	Date[22]	Activity
25	1st Quarter(Q1), 2014	Complete; startup date was April 23, 2014.
27	1st and 2nd Quarter in 2016	Equipment mobilization, six-week conversion and demobilization; pre-outage construction conducted 4th quarter of 2017 thru the 1st quarter in 2018. Conversion Complete—start-up date was April 23, 2016.
28	2nd and 3rd Quarter in 2016	Equipment mobilization, six-week conversion and demobilization; pre-outage construction conducted 4th quarter of 2017 thru the 1st quarter in 2018. Conversion Complete—start-up date was October 2, 2016.
29	1st and 2nd Quarter in 2018	Equipment mobilization, six-week conversion and demobilization; pre-outage construction conducted 4th quarter of 2017 thru the 1st quarter in 2018. Conversion Complete—start-up date was March 30, 2018.
26	3rd Quarter in 2018	Equipment mobilization, six-week conversion and demobilization; pre-outage construction conducted 4th quarter of 2017 thru the 1st quarter in 2018.

Based on this projected timeline, Eastman intends to complete conversion of B–253 by the 3rd quarter of 2018 just before the October 4, 2018 attainment date. At the time of this proposed rulemaking, four of the five coal-fired boilers at B–253 (B–25, 27, 28, and 29) have been converted, are fully operational and currently subject to the natural gas fuel restriction established in Permit 966859F. According to Eastman, this compliance schedule was the most practicable to meet the BART requirements and attain the SO_2 NAAQS to maintain the necessary steam and electricity for manufacturing operations. This is also due, in part, to the state required (Tennessee Code Section 68–122–110) annual boiler safety inspection and maintenance of all 17 boilers at Eastman (including B–253) while ensuring necessary boiler capacity to sustain facility operations.[23] According to Eastman, to complete the conversion of a boiler to natural gas the normal safety inspection is extended to 6 weeks. Because of extended inspections and boiler shutdowns in 2017, Eastman did not convert any boilers at B–253 in 2017. As indicated in Table 3, the final boiler (B–26) is scheduled for conversion in the 3rd quarter of 2018.

[21] Tennessee's attainment SIP mistakenly states that the 1-hour SO_2 attainment date is October 5, 2018 instead of October 4, 2018.

[22] According to TDEC, Eastman did not schedule the conversion of any boilers in 2015 or 2017 due to legally required annual boiler safety inspections and maintenance to ensure facility steam and electricity reliability. The necessary engineering work for the conversion of Boilers 27 and 28 in 2016 was performed in 2015 and 2017 for Boilers 26 and 29. For additional information, please refer to Tennessee's Attainment SIP Narrative located in the docket (ID: EPA–R04–OAR–2017–0626).

[23] The Tennessee Boiler and Unfired Pressure Vessel inspection law (Tennessee Code Section 68–122–110) requires annual inspection and maintenance of Eastman's 17 power boilers. According to Eastman, only one boiler at a time is taken off-line to ensure the necessary steam and electricity reliability for manufacturing operations. The duration of each inspection depends on the size and maintenance cycle of the boiler components. Eastman has stated it takes 46–48 of the 52 weeks to complete the scheduled inspections and boiler maintenance. Eastman also indicated that it is not practicable for the facility to schedule more than two extended inspections per calendar year without potential risk meeting production demands.

Tennessee's May 2017 attainment SIP also provides estimated incremental emission reductions during the conversion of all five boilers at B–253. Table 6–2 in TDEC's submittal [24] provides for projected change in actual emissions at Eastman over the duration of the repowering at B–253 and post-control after the attainment date. TDEC compared the pre-control emission rates for all boilers at B–83, B–325 and B–253 for the period of April 1, 2012 through March 31, 2013 over the course of the conversion (interim years 2015 and 2017) to post-control emissions (after October 4, 2018). Projected emission reductions after the completion of B–253 conversion and compliance with the SO_2 emission limit for B–83 and B–325, are expected to be 66 percent compared to pre-control levels (with estimated incremental emission reductions of 11 percent and 39 percent in 2015 and 2017 respectively (after complete conversion of B–25 in 2014 and B–27 and 28 in 2016). The average pre-control emissions from each B–253 boiler was 677 pounds per hour (or 2,965 tpy). TDEC estimates that each boiler conversion will reduce emissions by 2,960 tpy.

The control measures for attainment of the 2010 SO_2 NAAQS included in the State's submittal have been modeled to achieve attainment of the 1-hour SO_2 NAAQS. The adoption of new emissions limits, and compliance parameters and a natural gas restriction (for repowered B–253 boilers) require these control measures to achieve emissions reductions. Tennessee finds that the attainment plan requires the affected sources to implement control measures as expeditiously as practicable to ensure attainment of the 1-hour standard and therefore concludes that the attainment plan provides for RFP in accordance with the approach to RFP described in EPA's guidance. EPA believes Tennessee's SIP provides for incremental reduction in emissions to ensure reasonable further progress towards attainment of the standard and therefore concurs and proposes to preliminary conclude that the plan provides for RFP and therefore satisfies the requirements of CAA section 172(c)(2).

F. Contingency Measures

As noted above, EPA guidance describes special features of SO_2 planning that influence the suitability of alternative means of addressing the requirement in section 172(c)(9) for contingency measures for SO_2, such that in particular an appropriate means of satisfying this requirement is for the state to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. Tennessee's plan provides for satisfying the contingency measure requirement in this manner.

Specifically, upon notification by Tennessee that a reference monitor for the Area has registered four validated ambient SO_2 concentrations in excess of the NAAQS during calendar years 2019 or 2020, or that a monitored SO_2 NAAQS violation based on the design value occurred during calendar years 2021 and beyond, Eastman will, without any further action by Tennessee or EPA, undertake a full system audit of all emission units subject to emission limits under this plan and submit a written system audit report to Tennessee within 30 days of the notification. Upon receipt of the system audit report, Tennessee will immediately begin a 30-day evaluation period to diagnose the cause of the monitored exceedance. This evaluation will be followed by a 30-day consultation period with Eastman to develop and implement operational changes necessary to prevent future monitored violations of the NAAQS. These changes may include fuel switching to reduce or eliminate the use of sulfur-containing fuels, physical or operational reduction of production capacity, or other changes as appropriate. If a permit modification is deemed necessary, Tennessee would issue a final permit within the statutory timeframes required in Tennessee Comprehensive Rules and Regulations 1200–03–09, and any new emissions limits required by such a permit would be submitted to EPA as a SIP revision. EPA concurs and proposes to approve Tennessee's plan for meeting the contingency measure requirement in this manner.

V. Additional Elements of Tennessee's Submittal

To verify that the 30-day limit is resulting in continued attainment of the 1-hour SO_2 standard in the Sullivan County area, Tennessee is establishing an additional safeguard within the nonattainment area by upgrading its existing SO_2 ambient air monitoring network in the Sullivan County area. TDEC has committed to deploy additional ambient air monitors within the nonattainment area [25] to characterize expected areas of maximum 1-hour SO_2 concentrations near the Eastman Chemical Plant. The State intends to designate the monitors as State/Local air monitoring stations in accordance with 40 CFR part 58 and locate the monitors as close as possible to the areas of expected maximum concentration. These monitors will be submitted for approval by EPA as part of the state's annual ambient air monitoring network plan.

VI. Incorporation by Reference

EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference into Tennessee's SIP a natural gas fuel restriction, a new SO_2 emission limit and specified compliance conditions established in permits 966859F and 070072F for monitoring, recordkeeping and reporting parameters for emissions units at Eastman Chemical Company. Specifically, EPA is proposing to incorporate into the Tennessee SIP, a new 1,753 lbs/hr 30-day SO_2 emission limit and operating, monitoring, recordkeeping and reporting parameters all established at Conditions 1 thru 4 in Permit 070072F for Boilers 18–24 at B–83 and Boilers 30–31 at B–325 and, a natural gas fuel restriction for Boilers 25–29 at B–253 (after each natural gas conversion) established at Condition 6 in Permit 966859F. The SO_2 emission standards specified in each permit are the basis for the SO_2 attainment demonstration in the SIP. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at EPA Region 4 office (please contact the person identified in the For **FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. EPA's Proposed Action

EPA is proposing to approve Tennessee's SO_2 nonattainment SIP submission, which the State submitted to EPA on May 11, 2017, for attaining the 2010 1-hour SO_2 NAAQS for the Sullivan County Area and for meeting other nonattainment area planning requirements. EPA has preliminarily determined that Tennessee's nonattainment SIP meets the applicable requirements of sections 110(a), 172, 191 and 192 of the CAA and regulatory requirements at 40 CFR part 51. This

[24] EPA notes the second note to Table 6–2 list 1,794 lbs/hr as the combined 30-day average allowable emission rate for B–83 and B–325 boilers, however, the correct emission rate is 1,753 lbs/hr.

[25] See email from TDEC to EPA Region 4, Air, Pesticides and Toxic Management Division, Air Director Beverly Banister on June 6, 2018 included in the docket for this proposal (ID: EPA–R04–OAR–2017–0626).

SO_2 nonattainment SIP includes Tennessee's attainment demonstration for the Sullivan County Area and other nonattainment requirements for a RFP, RACT/RACM, NNSR, base-year and projection-year emission inventories, enforceable emission limits and compliance parameters and contingency measures. Specifically, EPA is proposing to approve into the Tennessee SIP, Eastman Chemical's enforceable SO_2 emission limit and compliance parameters (monitoring, recordkeeping and reporting) from PSD construction permit 966859F (condition 6) and Permit No. 070072F (conditions 1–4) (see section IV.B.4.1).

VIII. 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. This action merely proposes to approve 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: June 19, 2018.

Onis ''Trey'' Glenn, III,

Regional Administrator, Region 4.

[FR Doc. 2018–14097 Filed 6–28–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0435; FRL–9979–25–Region 6]

Approval and Promulgation of Implementation Plans; Arkansas; Interstate Transport Requirements for the 2012 $PM_{2.5}$ NAAQS and Definition Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is proposing to approve portions of the Arkansas State Implementation Plan (SIP) submittal addressing the CAA requirement that SIPs address the potential for interstate transport of air pollution to significantly contribute to nonattainment or interfere with maintenance of the 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) in other states. EPA is proposing to determine that emissions from Arkansas sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 $PM_{2.5}$ NAAQS. The EPA is also proposing to approve a revision to update incorporation by reference of NAAQS germane to this proposed action.

DATES: Written comments must be received on or before July 30, 2018.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R06–OAR–2017–0435, at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* 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.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

A. The $PM_{2.5}$ NAAQS and Interstate Transport of Air Pollution

Under Section 109 of the CAA, we establish NAAQS to protect human health and public welfare. In 2012, we established a new annual NAAQS for $PM_{2.5}$ of 12 micrograms per cubic meter (μg/m^3), (78 FR 3085, January 15, 2013). The CAA requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable ''infrastructure'' elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action reviews how the first two sub-elements contained in CAA section 110(a)(2)(D)(i)(I) were addressed in an infrastructure SIP submission from Arkansas for the 2012 $PM_{2.5}$ NAAQS. These sub-elements require that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity in one state that will ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the applicable air quality standard in any other state.

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to $PM_{2.5}$ in several past regulatory actions. In 2011, we promulgated the Cross-State Air Pollution Rule (CSAPR, 76 FR 48208, August 8, 2011) in order to address the obligations of states—and of the EPA when states have not met their obligations—under CAA section 110(a)(2)(D)(i)(I) to prohibit air pollution contributing significantly to nonattainment in, or interfering with maintenance by, any other state with regard to several NAAQS, including the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.[1] In that rule, we considered states linked to downwind nonattainment or maintenance receptors[2] if they were projected by air quality modeling to contribute more than the threshold amount (1% of the standard) of $PM_{2.5}$ pollution for the 1997 and 2006 $PM_{2.5}$ NAAQS (76 FR 48208, 48239–43). The EPA has not established a threshold amount for the 2012 $PM_{2.5}$ NAAQS. In 2016 we provided an informational memorandum (the 2016 memo) about the steps states should follow as they develop and review SIPs that address this provision of the CAA for the 2012 $PM_{2.5}$ NAAQS.[3]

B. Arkansas SIP Submittal Pertaining to the 2012 $PM_{2.5}$ NAAQS and Interstate Transport of Air Pollution

On March 24, 2017, Arkansas submitted a SIP revision to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS. The submittal stated that the State had adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS stating, ''Past contribution modeling by EPA for the 2006 $PM_{2.5}$ NAAQS, included in 'Air Quality Modeling Final Rule Technical Support Document' published in June 2001 to support the Final Cross-State Air Pollution Rule (CSAPR) (76 FR 48208), demonstrated that Arkansas did not significantly contribute to nonattainment or interfere with maintenance of the annual $PM_{2.5}$. NAAQS that was set in 1997 and retained in 2006.''[4] Arkansas's largest contribution to nonattainment for the 2006 annual $PM_{2.5}$ NAAQS was 0.1 μg/m^3 and Arkansas's largest downwind contribution to maintenance of the 2006 $PM_{2.5}$ annual standard was 0.04 μg/m^3. Not only are both of these values below the 1% significance threshold for the annual $PM_{2.5}$ NAAQS retained in 2006 (15 μg/m^3), they are also below 1% of the 2012 $PM_{2.5}$ NAAQS value of 12 μg/m^3.''

We previously approved the portions of Arkansas's 2006 $PM_{2.5}$ NAAQS i-SIP which addressed the requirements that emissions within Arkansas be prohibited from contributing to the nonattainment or interfere with maintenance of the NAAQS in other states (sub-elements 1 and 2). 78 FR 53269 (August 29, 2013). Based on our evaluation of the State's submission discussed below, we propose to approve the March 24, 2017 submittal intended to demonstrate that the SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS.

C. Revisions to the Arkansas SIP Definitions and National Ambient Air Quality Standards List

Included in the March 24, 2017 submission were updates to Regulation 19, Chapter 2 and Appendix B (Regulations of the Arkansas Plan of Implementation for Air Pollution Control) of the Arkansas Code Annotated § 8–4–201. We are proposing to approve the revised definition of ''National Ambient Air Quality Standards'' in Chapter 2 that changes the effective date to January 15, 2013. We also are proposing to approve the changes in Appendix B under ''Particle Pollution, $PM_{2.5}$.'' that reflect the update and apply the Chapter 2 definition to all Chapters of Regulation 19. Please see the Technical Support Document (TSD) for additional information and evaluation below.

II. The EPA's Evaluation

A. Pertaining to 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS

As stated above, Section 110(a)(2)(D)(i) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state that will (I) contribute significantly to nonattainment, or interfere with maintenance of the NAAQS in another state, and (II) interfere with measures required to prevent significant deterioration of air quality, or to protect visibility in another state. This action addresses only CAA Section 110(a)(2)(D)(i)(I).

EPA issued the 2016 memo about the steps states should follow and we will be following the framework outlined in the memo for our evaluation. The 2016 EPA memo outlined the four-step framework EPA has historically used to evaluate interstate transport under section 110(a)(2)(D)(i)(I), including the EPA's CSAPR.

(1) Identification of potential downwind nonattainment and maintenance receptors;

(2) Identification of upwind states contributing to downwind nonattainment and maintenance receptors;

(3) For states identified as contributing to downwind air quality problem, identification of upwind emissions reductions necessary to prevent upwind states from significantly contributing to nonattainment or interfering with maintenance of receptors, and;

(4) For states that are found to have emissions that significantly contribute to non-attainment or interfere with maintenance downwind, reducing the

[1] Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48207 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and 40 CFR part 97).

[2] Nonattainment or maintenance receptors are monitors projected to have air quality problems.

[3] Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I) March 17, 2016 from Stephen D. Page.

[4] Air Quality Modeling Final Rule Technical Support Document, June 2011 *http://www.epa.gov/airtransport/CSAPR/pdfs/AQModeling.pdf.*

identified upwind emissions through adoption of permanent and enforceable measures.

Based on this approach, the potential receptors are outlined in Table 1 in the memo. Most of the potential receptors are in California, located in the San Joaquin Valley or South Coast nonattainment areas. However, there is also one potential receptor in Shoshone County, Idaho, and one potential receptor in Allegheny County, Pennsylvania.

The 2016 memo did note that because of data quality problems nonattainment and maintenance projections were not done for all or portions of Florida, Illinois, Idaho, Tennessee and Kentucky. After issuance of the memo, data quality problems were resolved for Idaho, Tennessee, Kentucky and most of Florida, identifying no additional potential receptors, with those areas having design values (DV) below the 2012 $PM_{2.5}$ NAAQS and expected to maintain the NAAQS due to downward emission trends for NO_X and SO_2 (*www.epa.gov/air-trends/air-quality-design-values* and *www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data*). Florida certified in March 2018 its 2017 $PM_{2.5}$ ambient air data for the counties in Florida that had had 2009–2013 data gaps, allowing us to develop 2015–2017 preliminary design values. The preliminary design values indicate the highest value is 8 μg/m^3 in Florida well below the NAAQS. For these reasons, we find that none of the counties in Florida with monitoring gaps between 2009–2013 should be considered either nonattainment or maintenance receptors for the 2012 $PM_{2.5}$ NAAQS, based on the 2015–2017 preliminary DV. Therefore, as of April 2018, only Illinois still has data quality issues preventing projections of nonattainment and maintenance receptors. As a result, Illinois will be evaluated below to determine if they have potential nonattainment or maintenance receptors for 2012 $PM_{2.5}$ NAAQS.

For ''Step 1'' of this evaluation, the areas identified as ''potential downwind nonattainment and maintenance receptors'' are:

- Seventeen potential receptors in California, located in the San Joaquin Valley or South Coast nonattainment areas;
- Shoshone County, Idaho;
- Allegheny County, Pennsylvania;
- All of Illinois

As stated above, ''Step 2'' is the identification of states contributing to downwind nonattainment and maintenance receptors, such that further analysis is required to identify necessary upwind reductions. For this step, we will be specifically determining if Arkansas emissions contribute to downwind nonattainment and maintenance receptors.

Each of the potential receptors is discussed below, with a more in-depth discussion provided in the TSD for this action. For additional information, links to the documents relied upon for this analysis can be found throughout the document, more information is available in the TSD and the documents can be found in the docket for this action.

California

As described in our TSD, our analysis shows that Arkansas's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the California potential receptors identified in the memo. In our analysis, we found specifically that the majority of the emissions impacting $PM_{2.5}$ levels in California are directly emitted $PM_{2.5}$ and/or $PM_{2.5}$ precursors from within the state, and that meteorological and topographic conditions serve as barriers to transport from Arkansas. We note that air quality designations are not relevant to our evaluation of interstate transport, however, the analysis developed for the 2012 annual $PM_{2.5}$ NAAQS designations process provides an in depth evaluation of factors critical in evaluating transport of $PM_{2.5}$ and $PM_{2.5}$ precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitors, which all support the conclusion that Arkansas's $PM_{2.5}$ and $PM_{2.5}$ precursors do not significantly contribute to nonattainment or interfere with maintenance of the California potential receptors. Furthermore, Arkansas is more than 1,700 miles to the east and generally downwind of the California receptors.[5]

For these reasons, we propose to find that Arkansas does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for California.

Shoshone County, Idaho

As discussed in the TSD, our analysis shows that Arkansas's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the Idaho potential receptor identified in the memo. In our analysis, we found specifically that the majority of the emissions impacting $PM_{2.5}$ levels, came during the winter time and could be attributed to residential wood combustion. The analysis developed for the 2012 annual $PM_{2.5}$ NAAQS designations process provide an in depth evaluation of factors that are useful in evaluating transport of $PM_{2.5}$ and $PM_{2.5}$ precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitor, which all support the conclusion that Arkansas $PM_{2.5}$ and $PM_{2.5}$ precursors do not significantly contribute to nonattainment nor interfere with maintenance of the Idaho potential receptor.[6] Furthermore, Arkansas is to the southeast and downwind of this receptor.

For these reasons, we propose to find that Arkansas does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for Shoshone, Idaho.

Allegheny County, Pennsylvania

As discussed in the TSD, our analysis shows that Arkansas's $PM_{2.5}$ emissions and/or $PM_{2.5}$ precursors do not significantly impact the Allegheny County, Pennsylvania (Liberty monitor) potential receptor identified in the memo. In our analysis, we found that there were strong local influences throughout Allegheny County and contributions from nearby states that contributed to its nonattainment for both the 1997 and 2006 $PM_{2.5}$ NAAQS. Contributors to the Liberty monitor in Allegheny County, Pennsylvania in recent years, have taken steps to improve air quality which will likely bring the monitor into compliance with the 2012 $PM_{2.5}$ annual NAAQS by the 2021 attainment date.

Another compelling fact is that in previous modeling, nonattainment in Allegheny County, Pennsylvania was linked to significant contributions from other states.[7] Arkansas was analyzed in this modeling, and emissions from Arkansas were not linked to Allegheny County.

For these reasons, we propose to find that Arkansas does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS for Allegany County, Pennsylvania.

[5] California: Imperial County, Los Angeles-South Coast Air Basin, Plumas County, San Joaquin Valley Area Designations for the 2012 Primary Annual $P_{M2.5}$ National Ambient Air Quality Standard Technical Support Document *https://www.regulations.gov/document?D=EPA-HQ-OAR-2012-0918-0330.*

[6] Idaho: West Silver Valley Nonattainment Area-2012 Primary Annual $PM_{2.5}$ National Ambient Air Quality Standard Technical Support Document. Prepared by EPA Region 10.

[7] Air Quality Modeling for 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48207, August 8, 2011).

Illinois

Due to ambient monitoring data gaps in the 2009–2013 data that would have been used to identify potential $PM_{2.5}$ nonattainment and maintenance receptors in Illinois, the modeling analysis of potential receptors could not be completed for the state. As a result, the entire state is considered unclassifiable.

Arkansas was included in the CSAPR modeling analysis for the 1997 $PM_{2.5}$ NAAQS. This analysis showed Illinois did have a nonattainment receptor identified through the CSAPR modeling analysis for the 1997 $PM_{2.5}$ NAAQS. The receptor was in Madison, Illinois, located near St. Louis, Missouri. The modeling did not, however, show a linkage for nonattainment or maintenance between Arkansas and Illinois meaning Arkansas' impact was estimated to be less than 1% of the 1997 NAAQS at the Madison, Illinois receptor. While this modeling does not directly address the 2012 standard it is indicative that Arkansas emissions are unlikely to impact attainment or maintenance receptors in Illinois.

As further evidence, recent 3-year averages for the monitors in Madison, Illinois have shown downward trends. There are three active monitors in Madison. The 3-year averages for the monitors are shown in Table 1 below. Because of data gaps, the data cannot be used to establish a valid design value but can be used to show a downward trend. Also, as noted in the TSD for this action, Illinois has been collecting valid data for 2015 and 2016. This data, while not a complete three-year period indicates that air quality in Illinois is meeting the 2012 p.m. 2.5 NAAQS.

TABLE 1—ANNUAL STANDARD 3-YEAR AVERAGES (μg/m³) FOR MADISON, ILLINOIS MONITORS

Monitor No.	2012–2014	2013–2015	2014–2016
171191007	12.9	11.6	10.8
171192009	10.4	9.7	9.4
171193007	12.5	10.8	10.1

For these reasons, we propose that Arkansas will not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in Illinois.

Since we determined that Arkansas's SIP includes provisions prohibiting any source or other type of emissions activity from contributing significantly to nonattainment in, or interfering with maintenance of the NAAQS, in another state, steps 3 and 4 of this evaluation are not necessary.

In conclusion, based on our review of the potential receptors presented in the March 17, 2016 informational memo, an evaluation identifying likely emission sources affecting these potential receptors, and the 2014 base case modeling in CSAPR final rule, we propose to determine that emissions from Arkansas sources will not contribute significantly to nonattainment in, nor interfere with maintenance by, any other state with regard to the 2012 annual $PM_{2.5}$ NAAQS.

B. Pertaining to Revisions to SIP Definition and the National Ambient Air Quality Standards List

The ADEQ submitted a collection of revisions to the Arkansas SIP on March 24, 2017. Included in these revisions is an update to the Arkansas SIP definition for the National Ambient Air Quality Standards. The definition in Chapter 2 of Regulation 19 updates the incorporation by reference date included in 40 CFR part 50 from July 27, 2012 to January 15, 2013. The changes in the revised Appendix B to Regulation 19 titled the ''National Ambient Air Quality Standards List'' reflect the definition update and applies it to all Chapters of Regulation 19.

III. Proposed Action

We have determined that the revisions submitted on March 24, 2017, were developed in accordance with the CAA and EPA's regulations. Therefore, under section 110 of the Act, the EPA proposes approval of the following revisions to the Arkansas SIP:

- The portion of the Arkansas SIP submittal, pertaining to interstate transport of air pollution demonstrating emissions from Arkansas will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state pursuant to the requirements of CAA section 110(a)(2)(D)(i)(I).
- The portion of the Arkansas SIP submittal where the definition of National Ambient Air Quality Standards in Regulation 19, Chapter 2 is revised to be the effective date of January 15, 2013 and Appendix B to Regulation 19, ''National Ambient Air Quality Standards List'' at ''Particle Pollution, $PM_{2.5}$'' as consistent with the CAA.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Arkansas regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the EPA Region 6 office (please contact Sherry Fuerst, 214–665–6454, *fuerst.sherry@epa.gov* for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

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

Dated: June 26, 2018.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2018–14067 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2018–0214, FRL–9980–19—Region 10]

Air Plan Approval; ID, Incorporations by Reference Updates and Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve state implementation plan (SIP) revisions submitted by the Idaho Department of Environmental Quality (IDEQ) on March 20, 2018 and April 12, 2018. The submitted revisions update incorporation by reference (IBR) of Federal regulations in the Idaho's rules. The revisions also remove an interim regulation that expired in 2003.

DATES: Comments must be received on or before July 30, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2018–0214, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Randall Ruddick at (206) 553–1999, or *ruddick.randall@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to EPA.

Table of Contents

I. Background

Section 110 of the Clean Air Act (CAA) specifies the general requirements for states to submit SIPs to attain and maintain the National Ambient Air Quality Standards (NAAQS) and the EPA's actions regarding approval of those SIPs. Idaho incorporates by reference (IBR) various portions of Federal regulations codified in the Code of Federal Regulations (CFR) into the Rules for the Control of Air Pollution in Idaho (IDAPA 58.01.01). Idaho then submits parts of IDAPA 58.01.01 to the EPA for approval into the Federally-approved Idaho SIP (generally those provisions that relate to the criteria pollutants regulated under section 110 of the CAA for which the EPA has promulgated NAAQS or other specific requirements of section 110).

To ensure that its rules remain consistent with the EPA requirements, Idaho generally updates the IBR citations in IDAPA 58.01.01 on an annual basis and submits a SIP revision to reflect any changes made to the Federal regulations during that year. Idaho's current SIP includes the approved incorporation by reference of specific Federal regulations, revised as of July 1, 2015, at IDAPA 58.01.01.107 ''Incorporation by Reference.'' On March 20, 2018, the State of Idaho submitted SIP revisions to the EPA to account for more recent Federal regulatory changes adopted by Idaho.

Additionally, on April 12, 2018, Idaho submitted a separate SIP revision to remove an expired interim transportation conformity provision. Transportation conformity is required under section 176(c) of the CAA to ensure Federally supported highway, transit projects, and other activities are consistent with (''conform to'') the purpose of the SIP.

II. EPA Evaluation of Idaho's SIP Revisions

Idaho submitted several state dockets (rulemakings) for approval to the EPA. We note that the dockets also include revisions to Idaho's regulations relating to its Title V operating permits, hazardous air pollutants (referred to as ''toxic air pollutants'' in Idaho regulations), and other air requirements that do not implement section 110 of the CAA. Idaho submitted these regulations for informational purposes only, in order to provide a complete record of each docket. In the cover letter to the March 20, 2018, submittal, Idaho specifically stated that the identified provisions (IDAPA 58.01.01.107.03.f-n) were not being submitted to update Idaho's SIP. We provide our analysis of the revisions below.

A. 2016 Federal Rule IBR Update

Docket 58–0101–1603 ''2016 Federal Rule IBR'' revises IDAPA 58.01.01.107.03 ''Documents Incorporated by Reference'' to update the citation dates for specific provisions incorporated by reference into the Idaho SIP as of July 1, 2016. Although Idaho requested approval of this docket, it has

been superseded by the annual IBR update for 2017, described below. Therefore, we are acting on only the most recently adopted and submitted version of Idaho's regulations (namely, the 2017 Federal Rule IBR Update). Further action on this docket is not necessary because this version of Idaho's regulations is no longer in effect.

B. 2017 Federal Rule IBR Update

Docket 58–0101–1702 ''2017 Federal Rule IBR Update'' revises IDAPA 58.01.01.107 ''Incorporations by Reference'' to update the citation dates for specific provisions incorporated by reference in IDAPA 58.01.01.107.03 ''Documents Incorporated by Reference'' as of July 1, 2017. Subparagraph (a) of IDAPA 58.01.01.107.03 incorporates by reference the Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR part 51, with the exception of certain visibility-related provisions, revised as of July 1, 2017. Importantly, Idaho's update to the incorporation by reference of 40 CFR part 51 includes nonattainment new source review (NNSR) requirements at 40 CFR 51.165.

Idaho has two designated $PM_{2.5}$ nonattainment areas: West Silver Valley 2012 annual $PM_{2.5}$ nonattainment area, and the Idaho portion of the Logan, Utah-Idaho 2006 24-hour $PM_{2.5}$ nonattainment area. Idaho's incorporation by reference of 40 CFR 51.165 as of July 1, 2017, as referenced by IDAPA 58.01.01.204 Permit Requirements for New Major Facilities and Modifications in Nonattainment Areas, captures the EPA's 2016 rule changes to 40 CFR 51.165 promulgated under subpart 4, part D, of the Clean Air Act. See Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements; Final Rule (81 FR 58010, August 24, 2016).

As a result, Idaho's NNSR program now regulates the four precursors to $PM_{2.5}$ that have been recognized by the EPA, namely, nitrogen oxides, sulfur dioxide, volatile organic compounds, and ammonia. Therefore, EPA is proposing to fully approve the Idaho SIP as meeting current Federal NNSR requirements for all pollutants, including $PM_{2.5}$.

Subparagraph (b) of IDAPA 58.01.01.107.03 incorporates by reference the National Primary and Secondary Ambient Air Quality Standards, 40 CFR part 50. The current Idaho SIP approved version of subparagraph (b) includes NAAQS revised as of July 1, 2015. On October 1, 2015, EPA signed a notice of final rulemaking revising the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). While both standards retain the same general form and averaging time (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years [1]), the levels were lowered from 0.075 parts per million (ppm) to 0.070 ppm.[2] Idaho's 2017 Federal Rules IBR update changed the citation date in subparagraph (b) to July 1, 2017 and therefore reflects the current (October 2015) Federal NAAQS for ozone. Other than ozone, EPA has not revised any other NAAQS since July 1, 2015. We therefore propose to approve Idaho's revision to subparagraph (b) as consistent with Federal standards.

Subparagraph (c) of IDAPA 58.01.01.107.03 incorporates the Approval and Promulgation of Implementation Plans, 40 CFR part 52, subparts A and N, and appendices D and E. This includes the Federal Prevention of Significant Deterioration (PSD) permitting rules at 40 CFR 52.21 and 52.22 as of July 15, 2017. The current Idaho SIP approved version of subparagraph (c) incorporates these Federal rules as effective July 1, 2015.

Since July 1, 2015, EPA promulgated revisions to 40 CFR 52.21 and repealed 52.22 in response to a court remand and vacatur. Specifically, on June 23, 2014, the United States Supreme Court, in Utility Air Regulatory Group (UARG) v. EPA, issued a decision addressing the application of PSD permitting to greenhouse gas (GHG) emissions. The Supreme Court said EPA may not treat GHGs as air pollutants for purposes of determining whether a source is a major source (or modification thereof) required to obtain a PSD permit. The Court also said EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limits on GHG emissions based on the application of Best Available Control Technology (BACT). In response to the UARG decision, and the subsequent Amended Judgment issued by the D.C. Circuit (Amended Judgment), EPA revised the Federal PSD rules to allow for the rescission of PSD permits that are no longer required under these decisions, 80 FR 26183 (May 7, 2015), and to remove the regulatory provisions that were specifically vacated by the Amended Judgment, 80 FR 50199 (August 19, 2015). In addition, EPA has proposed to revise provisions in the PSD permitting regulations applicable to GHGs to fully conform with UARG and the Amended Judgment, but those revisions have not been finalized. 81 FR 68110 (Oct. 3, 2016).

Idaho's incorporation by reference of 40 CFR 52.21 and 52.22 as of July 1, 2015, included the May 7, 2015 revisions to 40 CFR 52.21(w), providing a mechanism for Idaho to rescind PSD permits that are no longer required in light of UARG and the Amended Judgment, but did not include the August 19, 2015 revisions to the Federal PSD program removing the PSD provisions vacated by the Amended Judgment. Idaho's March 20, 2018 SIP submittal updates the IBR citation date to July 1, 2017 and thereby encompasses the August 19, 2015 revisions to the Federal PSD program. The Idaho SIP will still contain some of the vacated GHG provisions (EPA has not finalized the actions proposed in 81 FR 68110), so EPA's approval of the Idaho's CFR incorporation by reference update to July 1, 2017 does not change the Idaho SIP with respect to the remaining vacated provisions. However, the remaining vacated portions of 40 CFR 52.21 incorporated into the Idaho SIP-approved PSD program are no longer enforceable.

EPA believes this portion of the Idaho SIP should be revised in light of the D.C. Circuit's Amended Judgment, but EPA also notes that these provisions may not be implemented even prior to their removal from the Idaho SIP because the court decisions described above have determined these parts of EPA's regulations are unlawful. Further, Idaho has advised EPA that it is not currently enforcing these provisions in light of the Supreme Court decision. See 82 FR 22083, May 12, 2017. We are therefore proposing to approve subparagraph (c) with the understanding that the GHG provisions vacated by the court decisions cannot be implemented and are not being enforced by Idaho.

Subparagraphs (d) and (e) of IDAPA 58.01.01.107.03 incorporate by reference the following provisions revised as of July 1, 2017: (d) Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR part 53; and (e) Ambient Air Quality Surveillance, 40 CFR part 58. These provisions relate to the criteria pollutants regulated under section 110 of title I of the CAA or other specific requirements of section 110 and make the Idaho SIP consistent with Federal law. The EPA is proposing to approve the revisions to IDAPA 58.01.01.107.03 (d) and (e).

[1] *See* 80 FR 65296 (October 26, 2015), for a detailed explanation of the calculation of the 3-year 8-hour average; see also 40 CFR part 50, Appendix U.

[2] These levels are commonly referred to in parts per billion (ppb): 75ppb and 70ppb, respectively.

C. Removal of Expired Rule

Idaho submitted Docket 58–0101–1602 that repealed IDAPA 58.01.01.582 ''Interim Conformity Provisions for Northern Ada County Former Nonattainment Area for PM–10'' (section 582) because it was outdated and no longer applicable. Section 582 was promulgated in 2001 as a temporary measure that was necessary only until a required maintenance plan could be developed to address CAA transportation conformity requirements for the PM_{10} Ada County nonattainment area. Idaho has since developed and adopted the required maintenance plan and EPA approved the maintenance plan on October 27, 2003 (68 FR 61106), effective November 26, 2003. Idaho repealed the expired section 582 (state effective March 28, 2017) and submitted the revision to EPA. EPA is therefore proposing to remove section 582 from Idaho's SIP as requested by Idaho in its April 12, 2018 SIP submittal.

III. Proposed Action

EPA is proposing to approve, and incorporate by reference where appropriate, in Idaho's SIP all revisions to IDAPA 58.01.01.107 *Incorporations by Reference,* except .03.f through .p (state effective March 28, 2018) as requested by Idaho on March 20, 2018, and as described in Section II.B. above.

EPA is also proposing, as requested by Idaho on April 12, 2018, to remove IDAPA 58.01.01.582 *Interim Conformity Provisions for Northern Ada County Former Nonattainment Area for PM 10* from the Idaho SIP because it expired in 2003 and Idaho has repealed it as a matter of state law (state effective March 29, 2017). See Section II.C. (above).

We have made the preliminary determination that the submitted SIP revisions are consistent with section 110 and part C of Title I of the CAA.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the provisions described above in Section III. Also in this rule, EPA is proposing to remove, in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to remove the incorporation by reference of IDAPA 58.01.01.582 as described in Section III. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 it 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).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 20, 2018.

Michelle L. Pirzadeh,

Regional Administrator, Region 10.

[FR Doc. 2018–14096 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[WC Docket No. 18–155; FCC 18–68]

Updating the Intercarrier Compensation Regime To Eliminate Access Arbitrage

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposed to adopt rules to curb the financial incentive to engage in access stimulation by giving access-stimulating LECs two choices for receiving calls. The access-stimulating LEC can choose either: To be financially responsible for the delivery of calls to its network, in which case intermediate access providers would charge the access-stimulating LEC for the delivery of calls; or to accept direct connections from long distance carriers seeking to terminate telephone calls to the LEC or from intermediate access providers of the long distance carriers' choosing, which would allow the long distance carriers to bypass intermediate access providers chosen by the access-stimulating LEC. This document seeks comment on several alternatives, including requiring LECs engaged in access stimulation to immediately transition their terminating access

charges to bill-and-keep. This document also seeks comment on the effect the proposed rules will have on specific arbitrage schemes described in the record. Finally, it seeks comment on how to curb other arbitrage schemes.

DATES: Comments are due on or before July 20, 2018; reply comments are due on or before August 3, 2018.

ADDRESSES: You may submit comments, identified by WC Docket No. 18–155, by any of the following methods:

- *Federal Communications Commission's website: http://apps.fcc.gov/ecfs//.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 888–835–5322.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Edward Krachmer, FCC Wireline Competition Bureau, Pricing Policy Division at 202–418–1525, or at *Edward.Krachmer@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), WC Docket No. 18–155; FCC 18–68, adopted on June 4, 2018 and released on June 5, 2018. The full text of this document may be obtained at the following internet address: *https://www.fcc.gov/document/fcc-proposes-reforms-eliminate-intercarrier-compensation-arbitrage.*

I. Background

A. The Current Access Stimulation Rules

1. To reduce access stimulation, as part of the *USF/ICC Transformation Order,* 76 FR 73860, FCC 11–161, the Commission defined ''access stimulation'' as occurring when two conditions are met. First, the involved LEC must have a ''revenue sharing agreement,'' which may be ''express, implied, written or oral'' that ''over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment'' by the LEC is ''based on the billing or collection of access charges from interexchange carriers or wireless carriers.'' Second, the LEC must also meet one of two traffic tests. An access-stimulating LEC either has ''an interstate terminating-to-originating traffic ratio of at least 3:1 in a calendar month, has had more than a 100 percent growth in interstate originating and/or terminating switched access minutes of use in a month compared to the same month in the preceding year.'' Even if a LEC no longer meets either of these traffic tests, once it is considered to have engaged in access stimulation, this regulatory classification persists so long as the LEC maintains any revenue sharing agreement.

2. A LEC that is engaged in access stimulation is required by our rules to reduce its access charges either by adjusting its rates to account for its high traffic volumes (if a rate-of-return LEC) or to reduce its access charges to those of the price cap LEC with the lowest switched access rates in the state (if a competitive LEC). These reduced rates lower the cost to interexchange carriers (IXCs) and the amount received by the LEC and the provider of high call volume services with which it has a revenue sharing agreement.

B. Arbitrage Schemes After the USF/ICC Transformation Order

3. Last year, the Wireline Competition Bureau (Bureau) issued a public notification, 82 FR 44754, seeking to refresh the record on ICC issues raised by the Commission in the *USF/ICC Transformation Order.* In response to that public notification, commenters argue that, notwithstanding prior Commission action, arbitrage continues as ''companies engaged in access stimulation use a variety of tactics to prevent interexchange carriers from avoiding their excessive charges.'' The record indicates that today's access arbitrage schemes are often enabled by the use of intermediate access providers selected by the terminating LECs. When an intermediate access provider is in the call path, the IXC pays access charges on a per-minute-of-use (MOU) basis to the intermediate access provider and to the terminating LEC. This tactic evades existing Commission rules intended to stop access stimulation to the extent that an intermediate access provider is not captured by the definition of ''access stimulation,'' and thus, is not subject to those rules.

4. Recent complaint activity suggests that much of the post-*USF/ICC Transformation Order* access arbitrage activity specifically involves LECs that use centralized equal access (CEA) providers to connect to IXCs. CEA providers are a specialized type of intermediate access provider that were formed in the 1980s to implement long distance equal access obligations (permitting end users to use 1+ dialing to reach the IXC of their choice) and to aggregate traffic for connection between rural incumbent LECs and other networks, particularly those of IXCs. There are currently three CEA providers, and the LECs that use them (subtending LECs) have traditionally been reliant on CEA providers for this equal access implementation as well as traffic measurement and billing.

II. Discussion

5. We propose solutions to the persistent, costly, and inefficient access stimulation arbitrage scheme described here and seek comment on how to prevent other types of arbitrage. We are mindful of the fact that practices adjust to regulatory change; therefore we invite comment on how to avoid introducing incentives for new types of arbitrage to arise.

A. Requiring Access-Stimulating LECs Either To Be Financially Responsible for Calls Delivered to Their Networks or To Accept Direct Connections

6. To rid the ICC system of the inefficiencies caused by access stimulation relating to intermediate access providers, we propose to require access-stimulating LECs to choose either to: (i) Bear the financial responsibility for the delivery of terminating traffic to their end office, or functional equivalent, or; (ii) accept direct connections from either the IXC or an intermediate access provider of the IXC's choice.

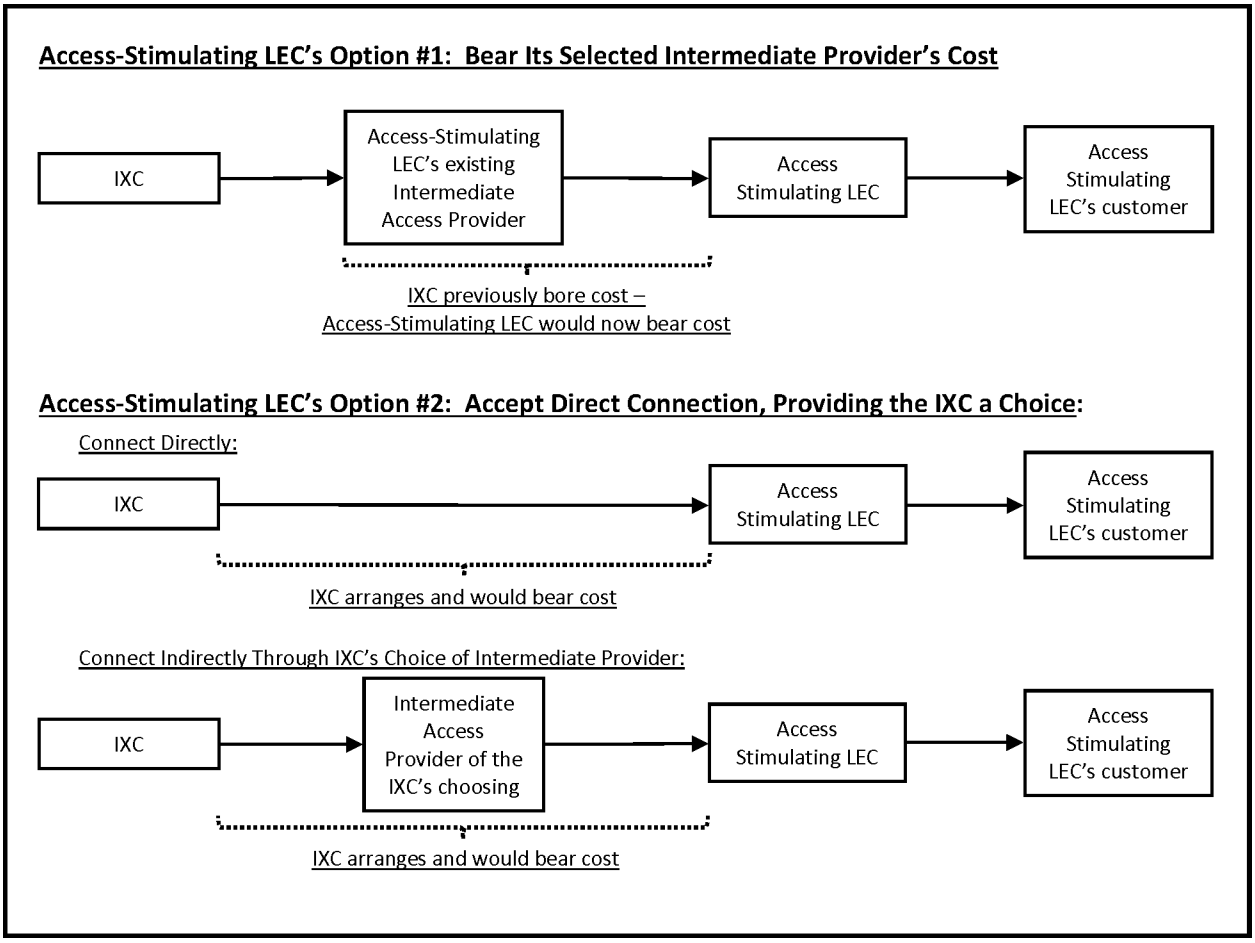
7. *Revised Financial Responsibility.* We seek comment on the first prong of our proposal and the impact it will have on access stimulation schemes. Under this prong, an access-stimulating LEC that does not offer direct connections to IXCs would bear all financial responsibility for applicable intermediate access provider terminating charges normally assessed to an IXC (from the point of indirect interconnection to the access-stimulating LEC's end office or functional equivalent), and would be prohibited from assessing transport charges for any portion of transport between the intermediate access provider and the LEC's end office or functional equivalent that the LEC, itself, provides. What are the advantages of placing the financial responsibility for delivery of traffic to its end office, or functional equivalent, on the access-stimulating LEC? Are there disadvantages?

8. What implementation issues does this part of our proposal raise? What steps would intermediate access providers need to take to bill access-stimulating LECs for terminating access

and to not bill IXCs? How much time do access-stimulating LECs and intermediate access providers need to make modifications necessary to accomplish this proposed change in financial responsibility? We propose to require carriers to come into compliance with these requirements within 45 days of the effective date of any revised rule. Is that timeframe sufficient? For example, is it possible to implement necessary billing system changes within that time frame? We similarly propose to require any carriers that newly qualify as access-stimulating LECs to come into compliance with these requirements within 45 days of such qualification.

9. For purposes of this proposal, we propose to define ''intermediate access provider'' as ''any entity that carries or processes traffic at any point between the final interexchange carrier in a call path and the carrier providing end office access service.'' We seek comment on the use of this definition in this context. Does it adequately capture the types of intermediate access providers currently benefiting from access stimulation schemes? Is it too narrow or too broad?

10. *Direct Connection.* Commenters have argued that the volume of traffic bound for access-stimulating LECs justifies direct connections, but allege that access-stimulating LECs currently refuse to accept such connections. Direct connections do not pass through intermediate switches and are offered on a capacity basis at monthly-recurring rates, as opposed to a per-MOU rate. If there is a sufficient volume of traffic, the monthly charges for direct connections can often be substantially lower than per-MOU rates for an equivalent amount of traffic. As the second prong of our proposal, we propose to provide access-stimulating LECs the option to offer to connect directly to the IXC or an intermediate access provider of the IXC's choice as an alternative to bearing financial responsibility for intermediate access provider charges and ceasing to bill their own transport charges. Under this proposal, IXCs would have the option of selecting an intermediate access provider that would bill the IXC for transport to the access-stimulating LEC on a dedicated basis. We seek comment on this proposal and on how best to implement it. We note that as a result of this election, an IXC would have the choice to connect with an access-stimulating LEC directly or indirectly through the LEC's existing intermediate access provider or another IXC directly connecting to the access-stimulating LEC.



11. For direct connections between an IXC (or an intermediate access provider of the IXC's choosing) and an access-stimulating LEC to be established, not only must the access-stimulating LEC be willing and able to accept direct connections, but arrangements need to be made between the IXCs seeking to avail themselves of such connections and the LEC. If we adopt the approach we propose today, how long should we give existing access-stimulating LECs to indicate their willingness to accept direct connections and how long should we give them to implement those direct connections? How detailed a timeline should we adopt for this process? Should we adopt rules regarding the

conduct of any negotiations for direct connections? For example, should we adopt a timeframe within which negotiations must be concluded before the LEC must assume financial responsibility for the delivery of traffic or the impasse submitted to arbitration? Similarly, if, at some later date, an access-stimulating LEC decides to offer direct connections, what process should the access-stimulating LEC need to follow to cease bearing the financial obligation for the intermediate access providers' charges? How should we address LECs that meet the definition of access-stimulating LEC after adoption of our rules? If they chose to offer direct connections, what time frame should we provide for making and implementing that decision?

12. We propose to adopt a rule that makes clear that allowing access-stimulating LECs to accept direct connection as a means of not bearing financial responsibility for intermediate access provider charges does not carry with it an obligation for such LECs to extend their networks absent a request and an independent obligation to do so. Is this a reasonable limitation? Are there any other limitations or exceptions we should apply? Are there other rules we should adopt to help providers implement the option to accept direct connections if a provider makes that choice? For example, because IXCs are not currently directly connected to access-stimulating LECs in the scenario to which our proposal applies, a third-party vendor may need to connect the two networks via dedicated transport such as, perhaps, the current intermediate access provider. Are there any rules that we should adopt to facilitate such arrangements?

13. One result of permitting access-stimulating LECs that subtend CEA providers to connect with IXCs directly (or an intermediate access provider of an IXC's choice) would be to end the ''mandatory use'' policy applicable to some CEA providers, at least with respect to access-stimulating LECs. Historically, this mandatory use policy has permitted the CEA providers in Iowa and South Dakota to require IXCs to connect to LECs that subtend the CEA provider indirectly through the CEA provider's tandem switch rather than indirectly through another intermediate access provider or directly to the subtending LEC. In initially permitting this practice almost thirty years ago, the Commission concluded that it ''[did] not believe that the mandatory termination requirement for interstate traffic is unreasonable or differs substantially from the normal way access is provided, as both an originating and terminating service by the local exchange company.''

14. It appears that access stimulation, particularly when practiced by competitive LECs, which were formed well after CEA providers were established, presents a reasonable circumstance for departing from the policy of permitting mandatory use requirements because delivery of such traffic, particularly in the pertinent volumes, was not the purpose for which CEA providers were formed. We seek comment on this assumption, and on the impact of this proposal on CEA providers, on the LECs that subtend CEA providers, and on the customers of such subtending LECs. For example, to the extent that creating the opportunity for access-stimulation traffic to bypass CEA providers threatens the viability of CEA providers, we seek comment on whether and how this potential effect should be addressed. Are there other companies that can perform the traditional functions of CEA providers, including equal access implementation and traffic measurement and billing? Recognizing that most states do not have CEA providers, are there ways that equal access and traffic identification and measurement are handled by small LECs in those states that can inform our decision making in this proceeding?

15. *Notice Requirement.* We propose to require access-stimulating LECs to notify affected IXCs and intermediate access providers of their intent to accept financial responsibility for calls delivered to their networks or to accept direct connections from IXCs or intermediate access providers of the IXCs' choosing. Should we also require the access-stimulating LEC to provide public, written notice of its choice to the Commission? Should we provide specific requirements regarding the form and content of such notice? For example, should we require an access-stimulating LEC to accept direct connections at current points of interconnection (POI) with intermediate access providers, as well as at the LECs' end office, and to provide notice of those locations? Or, should we allow an access-stimulating LEC to choose where to provide POIs and to specify those locations in its notice? Should access-stimulating LECs also provide notice to the Commission and state commissions of their choice to accept direct connections and of the location of their POIs? To ensure that the investment made by an IXC to extend its network to directly interconnect with an access-stimulating LEC is not stranded, should an access-stimulating LEC be prohibited from ending its election of direct connections once made? Should such a prohibition be permanent or for a specified period of time?

16. *Impact of this Proposal.* We seek comment on the costs and benefits of our proposal. To what extent will our two-pronged proposal alleviate market distortions created by the ability of access-stimulating LECs to bill for switched transport services at rates that our rules have not required to be reduced below 2011 interstate levels? Will the incentives created by our proposal for access-stimulating LECs to accept direct connections (to avoid bearing intermediate access provider charges imposed by a provider of the access-stimulating LEC's choosing) alleviate the problem of IXCs paying relatively-high tandem-switched transport rates by giving IXCs more options to reach end users?

17. How will our proposal affect incentives for carriers to migrate their services to IP? To what extent do parties expect that direct connections would be provided in time division multiplexed (TDM) format rather than IP? Are there circumstances under which an access-stimulating LEC should be required, upon request, to interconnect using IP rather than TDM and bear any costs necessary to do so? Are calls bound for high call volume service providers ultimately converted to IP for delivery? Would requiring IP interconnection obviate the need to convert TDM traffic to IP for delivery?

18. *NTCA et al. Proposal.* NTCA et al. has recommended that we adopt rules similar to the first prong of our proposal, but without providing an access-stimulating LEC the option of electing to accept direct connections as a means of avoiding bearing intermediate access provider charges. Under the NTCA et al. proposal, within 45 days of the effective date of the implementing rules, access-stimulating LECs would be required to revise their tariffs to remove any terminating interstate tandem switching and tandem transport charges of their own and also begin to assume financial responsibility for all intermediate switched access provider interstate tandem switching and transport charges for traffic bound for such access-stimulating LECs. The NTCA et al. proposal would also require access-stimulating LECs to provide written notice to all affected providers, including intermediate access providers, of the substance of these tariff revisions at the time that such tariff revisions are filed, as well as the fact that such access-stimulating LECs will be bearing financial responsibility for pertinent intermediate switched access provider interstate tandem switching and transport charges.

19. Although the NTCA et al. proposal does not preclude an access-stimulating LEC from avoiding incurring intermediate access provider charges by beginning to accept direct connections, it also does not provide IXCs any incentive to accept offers of direct connection from such LECs. By permitting access-stimulating LECs to elect to accept direct connections, our proposal seeks to provide a formal means by which access-stimulating LECs may eventually avoid incurring intermediate access provider charges. We seek comment on the NTCA et al. proposal both as an independent proposal and also as it relates to our proposal above.

20. *CenturyLink Proposal.* CenturyLink suggests that we consider an approach similar to our proposal, but with broader applicability. Rather than focusing on access-stimulating LECs, CenturyLink recommends shifting financial responsibility to any LEC that declines to accept a request for direct interconnection for the purpose of terminating access traffic. We seek comment on this recommendation. What would be the impact of such an approach on the affected companies and their customers?

B. Requiring All Access-Stimulating LECs To Transition to Bill-and-Keep

21. If we do not adopt rules requiring access-stimulating LECs to either choose to accept financial responsibility for the delivery of calls or to accept direct connections, should we reduce all terminating tandem switching, common transport, and tandem-switched transport rate elements for access stimulators to bill-and-keep? Moving these access charges to bill-and-keep would be consistent with our overarching goals of discouraging arbitrage, in particular access stimulation, and ultimately transitioning all traffic to bill-and-keep. It would also be consistent with the Commission's finding in the *USF/ICC Transformation Order* that with respect to terminating traffic, the LEC's end user is the cost causer and therefore the LEC should look first to its subscribers to recover the costs of it network. To what extent would this approach resolve the access arbitrage concerns identified in this NPRM? We also seek comment on how this approach fits with the other proposals in this NPRM. For example, if we reduce all terminating access charges to bill-and-keep is there any remaining incentive for carriers to stimulate traffic? We also seek comment on any implementation issues or concerns related to the proposal. Should we provide for a transition period to bill-and-keep for access stimulators? If so, how long should the transition last and what steps should it include?

22. We also seek comment on whether to require an access-stimulating LEC to transition its dedicated transport and originating rates to bill-and-keep. The only potential access arbitrage scheme of which we are aware regarding originating access concerns 8YY traffic, which we leave for separate consideration. Outside the 8YY context, are there arbitrage schemes involving originating access about which we should be concerned? Can they be addressed by a transition to bill-and-keep or by other proposals in this NPRM?

C. Defining Access Stimulation

23. Given evidence that access stimulation schemes are still being perpetrated notwithstanding our existing rules, we seek comment on whether, and if so how, to revise the current definition of access stimulation to more accurately and effectively target harmful access stimulation practices. What has been the impact of the current definition over the last seven years? Has it proved effective at identifying actors that are distorting the ICC system for their own gain? If not, how can we revise the definition to more accurately identify these types of harmful practices? Should we, for example, modify the ratios or triggers in the definition? If so, how should those ratios or triggers be modified? Should we adopt triggers that relate to the stimulation of tandem and transport services? If so, what should those triggers be? Is the current revenue sharing agreement requirement in our rules sufficiently broad or should it be revised, and if so how? Or, should we remove the revenue sharing portion of the definition, because access stimulation seems to be occurring in some instances even in the absence of revenue sharing? Do commenters believe that revenue sharing alone is an indication of access stimulation? If so, should we revise our rules so that the existence of a revenue sharing agreement triggers the access stimulation rule? How will we know if parties are engaged in revenue sharing? Should we require these parties to self-report? If so, we seek comment on how to implement a self-reporting requirement.

24. Alternatively, based on parties' experience with our existing access stimulation rules, is there reason to find that access stimulation itself is unjust and unreasonable because of the imposition of excess charges on IXCs, wireless carriers, and their customers? Or, is there a subset of such activities that we should separately identify as unlawful?

25. To address specific concerns identified in the record, commenters should also consider the extent to which the access stimulation definition should be revised to address intermediate access providers. Do intermediate access providers that are not engaged in access stimulation as defined in our current rules nevertheless benefit from access stimulation schemes? To remove incentives for intermediate access providers to enable access arbitrage schemes, aside from the proposals discussed above, should we adopt new access stimulation rules, or modify our existing rules, to apply specifically to intermediate access providers? Would doing so be unduly burdensome to intermediate access providers or small LECs who subtend them? Are there technical obstacles that would make it infeasible for intermediate access providers to comply with the Commission's current, or any modified, access stimulation rules? Would a requirement that access-stimulating subtending LECs notify the intermediate access provider that they are engaged in access stimulation and identify the traffic that is being stimulated provide a practical solution?

D. Addressing Other Arbitrage Schemes, and Alternative Approaches to Arbitrage

26. The record indicates the existence of at least three other types of arbitrage schemes. We seek comment on the prevalence and impact of these types of schemes described in more detail below. Will any of the rules we propose today help retard these schemes? Are there other rules we should adopt to prevent these schemes?

27. First, parties describe an access arbitrage scheme involving a revenue sharing or other type of agreement between an intermediate access provider and a terminating carrier that may not meet the definition of access stimulation under our rules, such as a Commercial Mobile Radio Service (CMRS) carrier. CMRS carriers are prohibited from tariffing access charges. However, intermediate access providers that transport traffic from an IXC to CMRS carriers can charge for access services through filed tariffs or negotiated agreements. Some IXCs claim that certain CMRS carriers that previously offered direct connections between their networks and the IXCs' networks have begun to use intermediate access providers to terminate their traffic from IXCs, to reap the benefit of alleged revenue sharing

agreements with the intermediate access providers. Should we adopt rules that discourage all revenue sharing agreements between terminating providers and intermediate access providers? If a terminating provider requires that some or all traffic be routed through an intermediate access provider, should we require the terminating provider to pay the intermediate access provider's charges? Or are there instances where it is most efficient or beneficial in other ways for a carrier to require traffic be routed through an intermediate access provider? What would be the costs and benefits of requiring a terminating provider that requires the use of a specific intermediate access provider to pay the intermediate access provider's charges? And would the cost-benefit analysis change if we focused any such rules on large terminating providers—*i.e.,* those with 100,000 or more ''lines'' at the holding company level?

28. Second, because LECs and intermediate access providers receive greater compensation from IXCs the further the LEC or intermediate access provider carries the traffic to reach a POI with the IXC, some commenters allege that LECs have changed their POI with IXCs for the sole purpose of artificially inflating their per-MOU, per-mile transport rates and revenue. This scheme is often referred to as mileage pumping. Shortly after the *USF/ICC Transformation Order,* the Commission released an order addressing this practice finding such network changes were merely sham arrangements and that the LECs did not have the unilateral right under their tariffs to make such changes. Nevertheless, allegations of mileage pumping continue. We seek comment on the prevalence of this practice, its impact in the market, and the likely effect of the rules proposed in this NPRM on this concern. What more can we do to prevent these practices?

29. Third, some commenters raise concerns about the addition of superfluous network facilities for which the LEC can bill switched access charges, but the rates for which are not subject to the current transition to bill-and-keep. This practice is sometimes referred to as ''daisy chaining.'' This practice may inefficiently inflate per-mile charges and insert unnecessary facilities to justify assessment of additional rate elements, such as remote switches that subtend end offices. What actions can we take to prevent daisy chaining?

30. Would the CenturyLink suggestion of shifting financial responsibility to LECs that decline to accept direct connections eliminate or reduce the three types of inefficient routing schemes described above? Even if an IXC chose not to seek a direct connection, would the risk of IXCs seeking direct connections provide a disciplining counterweight to some providers' incentives to engage in mileage pumping or daisy-chaining? What would be the impact on affected parties?

E. Other Issues

31. We recognize that any action we take to address access arbitrage may affect the costs to carriers and their customers and the choices they make, as they provide and receive telecommunications services. Consumers that enjoy high call volume services could be affected by regulatory adjustments targeting arbitrage. Are there efficiencies that are in the public's interest in what some describe as arbitrage? Would addressing the arbitrage described here unfairly advantage any particular competitor or class of competitors? If so, are there alternative means to address the arbitrage issues described here and presented in the record? How would the changes proposed herein affect small businesses?

32. In the *USF/ICC Transformation Order,* the Commission considered direct costs imposed on consumers by arbitrage schemes. The Commission also found that access stimulation diverts ''capital away from more productive uses such as broadband deployment.'' We believe this continues to be true. Are there additional, more-current data available to estimate the annual cost of arbitrage schemes to companies, long distance rate payers, and consumers in general? Likewise, are there data available to quantify the resources being diverted from infrastructure investment because of arbitrage schemes? To what degree are consumers indirectly affected by potentially inefficient networking and cost recovery due to current regulations and the exploitation of those regulations? Are there other costs or benefits we should consider?

F. Legal Authority

33. The proposals in this NPRM, targeted to address the particular issues described in the record, continue the work the Commission began in the *USF/ICC Transformation Order* to stop economically wasteful arbitrage activity and the damage it causes in telecommunications markets. Therefore, we rely on the legal authority the Commission set forth in the *USF/ICC Transformation Order,* as support for modifications to rules we propose in this NPRM. The Commission made clear that its rules to address access arbitrage would result in interstate access rates ''consistent with section 201(b) of the Act.'' The Commission likewise found that ''[o]ur statutory authority to implement bill-and-keep as the default framework for the exchange of traffic with LECs flows directly from sections 251(b)(5) and 201(b) of the Act.'' We seek comment on whether additional statutory authority is available, or necessary, to support the actions proposed here.

III. Rule Revisions

34. We seek comment on the rule changes proposed at the end of this document. What, if any, other rule additions or modifications should we make to codify these proposals? Are there any conforming rule changes that commenters consider necessary? For example, we intend for any rules that we adopt to apply not only to interstate traffic, but also intrastate traffic. Do our proposed rules adequately address this? Are there any conflicts or inconsistencies between existing rules and those proposed herein? We ask commenters to provide any other proposed actions and rule additions or modifications we should consider to address the access arbitrage schemes described in this NPRM including updates to any relevant comments or proposals made in response to the *USF/ICC Transformation FNPRM,* 76 FR 78383.

IV. Procedural Matters

35. *Filing Instructions.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

36. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

37. *Ex Parte Requirements.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

38. *Paperwork Reduction Act Analysis.* This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

39. *Initial Regulatory Flexibility Act Analysis.* Pursuant to the Regulatory Flexibility Act (RFA), we have prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this NPRM. The Commission prepared an IRFA to accompany the first Further Notice of Proposed Rulemaking in this docket, *USF/ICC Transformation FNPRM.* The questions asked in this NPRM are different than those the Commission sought comment on previously. Therefore, we have prepared a new IRFA to reflect the substance of this NPRM. The text of the IRFA is set forth in section V of this document. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

40. *Contact Person.* For further information about this proceeding, please contact Edward Krachmer, FCC Wireline Competition Bureau, Pricing Policy Division, Room 5–A230, 445 12th Street SW, Washington, DC 20554, (202) 418–1525, *Edward.Krachmer@fcc.gov.*

V. Initial Regulatory Flexibility Analysis

41. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), we have prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). We request written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. We will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objective of, the Proposed Rules

42. In the *USF/ICC Transformation FNPRM,* the Commission sought comment on additional steps to implement the bill-and-keep regime as well as possible communications network definitional changes, the appropriate recovery mechanisms going forward and VoIP and IP-to-IP related intercarrier compensation issues. In this NPRM we propose to adopt rules to address access arbitrage schemes that persist despite previous Commission action. We propose to adopt rules to give access-stimulating LECs two choices about how they connect to IXCs. First, an access-stimulating LEC can choose to be financially responsible for calls delivered to its networks so it, rather than IXCs, pays for the delivery of calls to its end office or the functional equivalent. Or, second, instead of accepting this financial responsibility, an access-stimulating LEC can choose to accept direct connections from either the IXC or an intermediate access provider of the IXC's choosing. In the alternative, we seek comment on moving all traffic bound for an access-stimulating LEC to bill-and-keep. The NPRM also seeks comment on potential revisions to the definition of access stimulation, in particular to address intermediate access providers. The record in this proceeding suggests additional access arbitrage activities are occurring, including: (1) Use of intermediate access providers by Commercial Mobile Radio Carriers; (2) mileage pumping; and (3) daisy chaining. Comment is sought on how best to address these activities. The

NPRM seeks comment on the costs and benefits of these proposals.

B. Legal Basis

43. The legal basis for any action that may be taken pursuant to this NPRM is contained in sections 1, 2, 4(i), 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), and 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

44. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

45. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS). Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

46. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

47. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers and under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 show that there were 3,117 firms that operated that year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

48. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

49. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission

estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

50. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

51. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined above. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of IXCs are small entities.

52. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

53. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

54. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities.

55. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

56. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

57. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that may be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261

have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

58. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

59. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

60. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

61. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

62. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

63. *All Other Telecommunications.* The ''All Other Telecommunications'' industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus a majority of ''All Other Telecommunications'' firms potentially may be affected by our action can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

64. The NPRM proposes and seeks comment on rule changes that will affect LECs and intermediate access providers, including CEA providers. The NPRM proposes rules to further limit or eliminate the occurrence of access arbitrage, including access stimulation, which could reduce potential reporting requirements. One possible result of the proposed rules would be greater availability of direct connections between IXCs and access-stimulating LECs to avoid the use of intervening third parties, including CEA providers, and thus create more efficient and economical network connections. Direct connections would also likely reduce recordkeeping requirements. Specifically, we propose amending our rules to allow access-stimulating LECs to choose either to be financially responsible for the delivery of calls to their networks or to accept direct connections from IXCs or from intermediate access providers of the IXC's choosing. The proposed rules also contain notification requirements for access-stimulating LECs, which may impact small entities. Some of these requirements may also involve tariff changes.

65. The NPRM also seeks comment on other actions the Commission could take to further discourage or eliminate access arbitrage activity. Rules which achieve these objectives could potentially affect recordkeeping and reporting requirements.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

66. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

67. This NPRM invites comment on a number of proposals and alternatives to modify or adopt access arbitrage rules and on the legality of access stimulation generally. The Commission has found these arbitrage practices inefficient and to ultimately increase consumer telecommunications rates. The NPRM proposes rules to further limit or eliminate the occurrence of access stimulation as well as other access arbitrage in turn promoting the efficient function of the nation's telecommunications network. We believe that if companies are able to operate with greater efficiency this will benefit the communications network as a whole, and its users, by allowing companies to increase their investment in broadband deployment. Thus, we propose to adopt rules to give access-stimulating LECs two choices about how they connect to IXCs. First, an access-stimulating LEC can choose to be financially responsible for calls delivered to its networks so it, rather than IXCs, pays for the delivery of calls to its end office or the functional equivalent. Or, second, instead of accepting this financial responsibility, an access-stimulating LEC can choose to accept direct connections from either the IXC or an intermediate access provider of the IXC's choosing. In the alternative, we seek comment on moving all traffic bound for an access-stimulating LEC to bill-and-keep. The NPRM also seeks comment on potential revisions to the definition of access stimulation, in particular to address intermediate access providers. The record in this proceeding suggests additional access arbitrage activities are occurring, including: (1) Use of intermediate access providers by Commercial Mobile Radio Carriers; (2) mileage pumping; and (3) daisy chaining. Comment is sought on how best to address these activities. The NPRM seeks comment on the costs and benefits of these proposals. Providing carriers, especially small carriers, with options will enable them to best assess the financial effects on their operation allowing them to determine how best to respond.

68. The NPRM also seeks comment on other actions we can take to further discourage or eliminate access arbitrage activity. Comment is sought on alternatives to our proposal that could be considered to achieve our objectives with potentially less impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

69. None.

VI. Ordering Clauses

70. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i), 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 201–206, 218–220, 251, 252, 254, 256, 303(r), and 403, and § 1.1 of the Commission's rules, 47 CFR 1.1, this Notice of Proposed Rulemaking *is adopted.*

71. *It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before July 20, 2018 and reply comments on or before August 3, 2018.

72. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 51

Common carriers, Communications.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302.

■ 2. Amend § 51.903 by adding paragraphs (k), (l), and (m) to read as follows:

§ 51.903 Definitions.

* * * * *

(k) *Access Stimulation* has the same meaning as that term is defined in § 61.3(bbb) of this chapter.

(l) *Intermediate Access Provider* means any entity that carries or processes traffic at any point between the final Interexchange Carrier in a call path and the carrier providing End Office Access Service.

(m) *Interexchange Carrier* means a telecommunications carrier that uses the exchange access or information access services of another telecommunications carrier for the provision of telecommunications.

■ 3. Add § 51.914 to read as follows:

§ 51.914 Additional provisions applicable to Access Stimulation traffic.

(a) Notwithstanding any other provision of the Commission's rules, if a local exchange carrier is engaged in Access Stimulation, it shall within 45 days of commencing Access Stimulation, or by [date 45 days after the effective date of the final rule], whichever is later:

(1)(i) Not bill any affected Interexchange Carrier or any Intermediate Access Provider for the terminating switched access tandem switching or any terminating switched access transport charges for any traffic between such local exchange carrier's terminating end office or equivalent and the associated access tandem switch; and

(ii) Assume financial responsibility for the applicable Intermediate Access Provider terminating tandem switching and terminating switched transport access charges relating to traffic bound for the access-stimulating local exchange carrier; or

(2) Upon request of an Interexchange Carrier for direct-trunked transport service, provision and enable direct-trunked transport service to either the Interexchange Carrier or an Intermediate Access Provider of the Interexchange Carrier's choosing within [period of time to be determined] of such a request.

(b) Notwithstanding any other provision of the Commission's rules, if a local exchange carrier is engaged in

Access Stimulation, it shall within 45 days of commencing Access Stimulation, or by [date 45 days after effective date of the final rule], whichever is later, notify in writing all Intermediate Access Providers which it subtends and Interexchange Carriers with which it does business of the following:

(1) That it is a local exchange carrier engaged in Access Stimulation;

(2) That it will either:

(i) Obtain and pay for terminating access services from Intermediate Access Providers for such traffic as of that date; or

(ii) Offer direct-trunked transport service to any affected Interexchange Carrier (or to an Intermediate Access Provider of the Interexchange Carrier's choosing); and

(3) To the extent that the local exchange carrier engaged in Access Stimulation intends to comply with paragraph (a) of this section through electing the option described in paragraph (a)(2) of this section, designate where on its network it will accept the requested direct connection.

(c) Nothing in this section creates an independent obligation for a local exchange carrier to construct new facilities other than, as necessary, adding switch trunk ports.

(d) In the event that an Intermediate Access Provider receives notice under paragraph (b) of this section that a local exchange carrier engaged in Access Stimulation will be obtaining and paying for terminating access service from such Intermediate Access Provider, an Intermediate Access Provider shall not bill Interexchange Carriers terminating tandem switching and terminating switched transport access for traffic bound for such local exchange carrier but, instead bill such local exchange carrier for such services.

(e) Notwithstanding any provision of this section, any carrier that is not itself engaged in Access Stimulation, as that term is defined in § 61.3(bbb) of this chapter, but serves as an Intermediate Access Provider with respect to traffic bound for an access-stimulating local exchange carrier, shall not itself be deemed a local exchange carrier engaged in Access Stimulation or be affected by this rule other than paragraph (d) of this section.

■ 4. Amend § 51.917 by revising paragraph (c) to read as follows:

§ 51.917 Revenue recovery for Rate-of-Return Carriers.

* * * * *

(c) *Adjustment for Access Stimulation activity.* 2011 Rate-of-Return Carrier Base Period Revenue shall be adjusted to reflect the removal of any increases in revenue requirement or revenues resulting from Access Stimulation activity the Rate-of-Return Carrier engaged in during the relevant measuring period. A Rate-of-Return Carrier should make this adjustment for its initial July 1, 2012, tariff filing, but the adjustment may result from a subsequent Commission or court ruling.

* * * * *

[FR Doc. 2018–13699 Filed 6–28–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket Nos. 07–42 and 17–105; FCC 18–80]

Leased Commercial Access; Modernization of Media Regulation Initiative

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks to update its leased access rules as part of its Modernization of Media Regulation Initiative. First, the Commission tentatively concludes that it should vacate its *2008 Leased Access Order,* which the U.S. Court of Appeals for the Sixth Circuit has stayed for a decade in conjunction with several judicial appeals of the order. Second, the Commission seeks input on the state of the leased access marketplace generally and invites comment on ways to modernize its existing leased access rules.

DATES: Comments are due on or before July 30, 2018; reply comments are due on or before August 13, 2018.

ADDRESSES: You may submit comments, identified by MB Docket Nos. 18–80 and 17–105, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's website: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, FCC 18–80, adopted on June 7, 2018 and released on June 8, 2017. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Further Notice of Proposed Rulemaking (FNPRM), we seek to update our leased access rules as part of the Commission's Modernization of Media Regulation Initiative. In response to the public notice initiating the media modernization proceeding, some commenters made proposals related to the Commission's leased access rules, which require cable operators to set aside channel capacity for commercial use by unaffiliated video programmers.[1] By addressing these proposals in this FNPRM, we advance our efforts to modernize our media regulations and remove unnecessary requirements that can impede competition and innovation in the media marketplace.

2. We tentatively conclude that we should vacate the *2008 Leased Access Order,* including the Further Notice of Proposed Rulemaking issued in conjunction with that order. This action would enable the Commission to clean up a longstanding backlog and position us to freshly consider new revisions to

[1] The leased access rules are in Subpart N of Part 76, which was listed in the *Media Modernization Public Notice* as one of the principal rule parts that pertains to media entities and that is the subject of the media modernization review.

the leased access rules.[2] Due to the Sixth Circuit proceedings as well as the OMB disapproval, the rule changes contained in the *2008 Leased Access Order* never went into effect. The leased access rules that are currently in effect, and that currently appear in the Code of Federal Regulations, are those that were in existence prior to the *2008 Leased Access Order.* Accordingly, vacating the *2008 Leased Access Order* would not have any impact on any party's compliance with or expectations concerning the leased access requirements.

3. In making this tentative conclusion, we note the concerns the Sixth Circuit expressed in its Stay Order regarding the leased access rules that were adopted in the *2008 Leased Access Order,* including ''that NCTA has raised some substantial appellate issues.'' The Sixth Circuit determined that a stay of the *2008 Leased Access Order* was justified due to ''[t]he balance of the harms and the public interest, as well as NCTA's potential of success on the merits.'' The Sixth Circuit also noted NCTA's argument that cable operators would suffer irreparable harm absent a stay because the new leased access rate formula adopted in the order would set leased access rates at an unreasonably low level, which would lead to more leased access requests that would displace other programming, ultimately leading to dissatisfied cable customers.

4. Further support for our tentative finding that we should vacate the *2008 Leased Access Order* arises from the concerns about the paperwork burden set forth in the OMB Notice. OMB detailed five ways in which certain requirements adopted in the order were inconsistent with the PRA. OMB specifically cited the Commission's failure to demonstrate the need for the more burdensome requirements adopted, its failure to demonstrate that it had taken reasonable steps to minimize the burdens, and its failure to provide reasonable protection for proprietary and confidential information. Some commenters in the media modernization proceeding agree with OMB that the *2008 Leased Access Order* failed to comply with the PRA.

5. We also tentatively find that vacating the *2008 Leased Access Order* would be consistent with the goal of the Commission's Modernization of Media Regulation Initiative to remove rules that are outdated or no longer justified by market realities. Because of the concerns raised in the Sixth Circuit Stay Order and the OMB Notice, the significant amount of time that has passed since the *2008 Leased Access Order* was adopted and became subject to a stay, the significant amount of time that the cable industry and programmers have remained subject to the pre-existing leased access rules during the pendency of the stay, and the very small number of leased access disputes brought before the Commission in recent years,[3] we tentatively find that there is no sound policy basis for the rules adopted in the 2008 order at this point. For all these reasons, rather than proceeding with the pending judicial review of the *2008 Leased Access Order* that has now been stayed for a decade, we tentatively conclude that a better approach would be for the Commission to vacate the *2008 Leased Access Order* and consider potential rule revisions anew.

6. We seek comment on our tentative conclusions. Is there any policy justification for not vacating the entire order? Is there any policy justification for retaining any particular rules adopted therein? Parties urging us not to vacate the entire order or particular rules should specify how the Commission should overcome both the judicial concerns noted in the Sixth Circuit Stay Order and those raised in the OMB Notice. We also ask parties to address any benefits associated with the 2008 rules and whether these benefits outweigh the costs.

7. We next seek comment on any updates and improvements we should make to our existing leased access rules. The stated purpose of the leased access statute ''is to promote competition in the delivery of diverse sources of video programming and to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems.'' The statute also specifies that the price, terms, and conditions for commercial leased access should be ''at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system.'' We note that the video distribution marketplace has become much more competitive since Congress first established the leased access regime in 1984. For example, at that time, direct broadcast satellite (DBS) service was not available to consumers as an alternative to cable. While consumers previously had access to only one pay television service, today they have access to multiple pay television services as well as online video programming. In addition, the number of channels offered by cable operators has increased.

8. Against this backdrop, we invite comment on the current state of the leased access marketplace generally and on whether, and if so how, the prevalence of alternative means of video distribution should influence our actions in this proceeding. How many leased access programmers are currently in existence, and is that number increasing or decreasing? What portion of a cable system's programming consists of leased access? Do the leased access rules currently in effect facilitate the successful leasing of time by leased access programmers, and if not, what issues do programmers experience? To what extent do leased access programmers continue to rely on cable carriage versus alternative means of distribution? Does the widespread availability of DBS service today or the proliferation of online video distributors provide programmers, including leased access programmers, with more options for content distribution?

9. As discussed below, we also seek comment on specific proposals raised in the media modernization proceeding to update and improve the Commission's existing leased access rules as well as on any other proposals we should consider.

10. First, as supported by several commenters in the media modernization proceeding, we propose to revise § 76.970(i) of our rules to provide that all cable operators, and not just those that qualify as ''small systems'' under that rule, are required to provide the information specified in paragraph (i)(1) only in response to a bona fide request for leased access information from a prospective leased access programmer.[4] For purposes of the leased access rules applicable to cable operators eligible for small system relief,[5] a bona fide request for information is defined as a request

[2] If we vacate the *2008 Leased Access Order,* we will subsequently dismiss as moot the NCTA FCC Stay Request (asking the Commission to stay the *2008 Leased Access Order*) and the TVC Recon Petition (seeking reconsideration of the *2008 Leased Access Order*).

[3] The Commission currently adjudicates an average of less than one leased access dispute per year.

[4] The *2008 Leased Access Order* distinguished between ''requests for information'' and ''proposals for leased access.'' Had that order gone into effect, it would have provided non-small cable systems with three days to respond to a request for information, whereas small cable systems would have had 30 days to respond to a bona fide request for information. All cable systems, regardless of size, would have been required to respond to bona fide leased access proposals within 10 days of receipt.

[5] For purposes of the leased access rules, a small system is defined as either (i) a system that qualifies as small under § 76.901(c) of the Commission's rules and is owned by a small cable company as defined in § 76.901(e); or (ii) a system that has been granted special relief.

from a potential leased access programmer that includes: ''(i) The desired length of a contract term; (ii) The time slot desired; (iii) The anticipated commencement date for carriage; and (iv) The nature of the programming.''

11. Section 76.970(i)(1) directs cable operators to provide prospective leased access programmers with the following information: ''(i) How much of the operator's leased access set-aside capacity is available; (ii) A complete schedule of the operator's full-time and part-time leased access rates; (iii) Rates associated with technical and studio costs; and (iv) If specifically requested, a sample leased access contract.'' Current rules require operators of small cable systems to provide the information only in response to a bona fide request from a prospective leased access programmer, whereas other cable system operators must provide the information in response to any request for leased access information.[6] As a result, some operators of systems that do not qualify as small may spend a significant amount of time compiling information to respond to non-bona fide leased access inquiries. These operators are not permitted to ask prospective leased access programmers for any information before responding to a leased access request, due to the Commission's concern that cable operators otherwise could use requests for information to discourage leasing access.

12. We seek comment on our proposal to extend the bona fide request limitation to all leased access requests. Is there any reason not to provide all cable operators with the flexibility of responding only to a bona fide request? We ask commenters to provide information on the costs that cable operators currently face in responding to non-bona fide leased access requests. How often do cable operators receive non-bona fide leased access requests, and how much time does it take to provide the required information in response to such a request? Does the bona fide request limitation that currently applies to operators of small cable systems in any way discourage prospective leased access programmers, including small programmers, from seeking to lease access and if so, how? If we extend the bona fide request limitation to all leased access requests, should we adopt any modifications to the current definition of a bona fide request?

13. Second, we invite comment on whether we should extend the time within which cable operators must provide prospective leased access programmers with the information specified in § 76.970(i)(1) of our rules. Current rules require cable system operators to provide the required information ''within 15 calendar days of the date on which a request for leased access information is made,'' while operators of systems that are subject to small system relief must provide the required information ''within 30 calendar days of a bona fide request from a prospective leased access programmer.'' We invite comment on whether cable operators have found it difficult to comply with the current deadlines for providing the required information, and if so, why. What steps must cable operators take to compile the information listed in § 76.970(i)(1) of the Commission's rules, and what costs do cable operators face in doing so under the current timeframe? Is the information readily available to cable operators? We also seek input on whether leased access programmers have found that the required information is generally provided on a timely basis in accordance with current rules. If, as discussed above, we revise our rules to provide that all cable operators, and not just those with small systems, are required to provide the listed information only in response to a bona fide request from a prospective leased access programmer, then is there any basis for extending the deadline to provide the information?

14. NCTA asks the Commission to provide cable operators with additional time, such as 45 days, within which ''to respond to requests to lease time on multiple systems.'' Is a 45-day response period reasonable for leased access requests covering multiple systems, and if not, what response time period is appropriate? Is it necessary to also provide additional response time for single cable systems? Do leased access requests typically involve multiple systems or are single-system requests often made? Would lengthening the deadline serve as a deterrent to or create a hardship for potential leased access programmers? Should we maintain a longer deadline for operators of small cable systems as compared to other cable operators?

15. Third, as urged by several commenters in the media modernization proceeding, we seek comment on whether we should permit cable operators to require leased access programmers to pay a nominal application fee[7] and/or a deposit,[8] which is currently prohibited. Cable operators state that requiring a deposit or a nominal application fee would ''help defray the costs of gathering the information necessary to calculate the leased access rate and to respond to any bona fide requests for leased access capacity that never lead to an actual leased access agreement.'' In the past the Commission has not supported the collection of fees or deposits with respect to leased access. In light of this history, how should we consider the impact of fees and deposits on interest, accessibility and diversity in leased access? Although the Commission previously found that such fees and deposits are not permissible, has anything changed that may persuade us that they are now a reasonable means of covering the costs of responding to leased access inquiries? If the Commission permits fees, what criteria should be used to determine whether an application fee is nominal? Rather than adopting rules governing what constitutes a ''nominal'' application fee, should the Commission evaluate such fees on a case-by-case basis when presented with a complaint that a particular fee is not nominal? Similarly, if we permit deposits, should we establish rules regarding an appropriate deposit amount, or alternatively, evaluate deposits on a case-by-case basis? If the Commission decides to adopt rules, how should it decide whether a deposit is reasonable? Should the cable operator refund all or part of the deposit if the leased access request does not result in carriage?

16. We seek comment on whether it would be preferable to permit a nominal application fee or a deposit, or both, and on the costs and benefits of each option. If we adopt our proposal to require all cable operators to respond only to bona fide leased access requests, is there any justification for requiring a deposit or application fee? Would requiring a deposit or application fee prior to obtaining the information set forth in § 76.970(i)(1) dissuade potential leased access programmers, particularly small entities, from seeking to lease access? Finally, should the Commission permit all cable operators, or permit only small cable operators, to require a nominal application fee or deposit before the

[6] We propose to correct § 76.970(i)(2) by replacing the reference to ''paragraph (h)(1) of this section,'' which does not exist, with ''paragraph (i)(1) of this section.'' All leased access requests are required to be in writing and to specify the date on which the request was sent to the cable operator.

[7] By ''nominal application fee,'' we mean a processing fee that would be collected and retained by the cable operator regardless of whether the request results in leased access carriage.

[8] By ''deposit,'' we mean a potentially more substantial fee that would be collected by the cable operator and used to offset future payments (*e.g.,* the first month's payment) if the leased access request results in carriage.

operator responds to a leased access request by providing the information set forth in § 76.970(i)(1)? Any commenter advocating that we permit only small cable operators to require a nominal application fee or deposit should explain its rationale.

17. Fourth, we invite comment on modifications to our procedures for addressing leased access disputes. Congress has provided the Commission with authority to adjudicate leased access disputes. Parties previously have contacted Commission staff to express confusion about inconsistencies between the leased access dispute resolution rule (§ 76.975) and the Commission's more general rule governing complaints (§ 76.7). Accordingly, to promote consistency between the two rules, we propose to revise § 76.975 of our rules as follows. First, we propose to revise our terminology by referencing an answer to a petition, rather than a response to a petition. Second, we propose that the 30-day timeframe for filing an answer to a leased access petition should be calculated from the date of service of the petition, rather than the date on which the petition was filed. Third, whereas § 76.975 currently does not include any allowance for replies, we propose adding a provision stating that replies to answers must be filed within 15 days after submission of the answer. Fourth, we propose adding a statement that § 76.7 applies to petitions for relief filed under § 76.975, unless otherwise provided in § 76.975. We invite comment on these proposals, which we intend to alleviate any ongoing confusion about how both §§ 76.7 and 76.975 govern leased access proceedings. Is 15 days the appropriate timeframe for submitting a reply to an answer to a leased access petition? We note that the general complaint-filing rule provides 10 days for filing replies, but it also provides only 20 days for filing an answer, whereas the leased access rule provides 30 days for an answer. Are there any other changes we should make to our rules in order to make the adjudication of leased access disputes more efficient?

18. Finally, we invite comment on any other ways in which we should modernize our leased access rules. For example, are any new rules needed to govern the relationship between leased access programmers and cable operators, such as a rule requiring cable operators to provide programmers with contact information for the person responsible for leased access matters? Should we adopt any new rules governing leased access rates or part-time leased access? Commenters supporting additional rules governing leased access rates should explain why additional rate rules are needed and what issues the rules should address. We ask commenters to explain the relative costs and benefits of any additional proposals.

19. In seeking comment on updating the FCC's leased access rules, we also seek comment on whether our rules implicate First Amendment interests. If so, what level of First Amendment scrutiny is appropriate, and how does that analysis apply to our existing rules and the potential changes we seek comment on here, in light of the statutory obligations of section 612? In this context, we also seek comment on whether there have been any changes in the video distribution market since Congress and the FCC first addressed these issues that are relevant to the First Amendment analysis. For instance, are there relevant changes in the distribution market that we should now consider? Is the FCC's 2015 decision regarding effective competition relevant to this analysis?

20. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the FNPRM. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In summary, the FNPRM seeks to update the Commission's leased access rules as part of its Modernization of Media Regulation Initiative. First, it tentatively concludes that we should vacate the Commission's *2008 Leased Access Order,* which the U.S. Court of Appeals for the Sixth Circuit has stayed for a decade in conjunction with several judicial appeals of the order. Second, it seeks input on the state of the leased access marketplace generally and invites comment on ways to modernize our existing leased access rules. The proposed action is authorized pursuant to sections 4(i), 303, and 612 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 532. The types of small entities that may be affected by the proposals contained in the FNPRM fall within the following categories: Cable Television Distribution Services, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), Cable and Other Subscription Programming, Motion Picture and Video Production, and Motion Picture and Video Distribution. The projected reporting, recordkeeping, and other compliance requirements are: (1) A tentative conclusion that we should vacate the *2008 Leased Access Order;* (2) as suggested by commenters in response to the *Media Modernization Public Notice,* a proposal to require cable operators to respond only to bona fide requests from prospective leased access programmers; (3) seeking comment on other suggested changes to leased access rules that were raised in the media modernization proceeding, including extending the timeframe for providing responses to leased access requests and permitting cable operators to require leased access programmers to pay a nominal application fee and/or a deposit; and (4) seeking comment on proposals to modify our procedures for addressing leased access disputes. There is no overlap with other regulations or laws.

21. We note that the FNPRM tentatively finds that vacating the *2008 Leased Access Order* would be consistent with the goal of the Commission's Modernization of Media Regulation Initiative to remove rules that are outdated or no longer justified by market realities. It is within this backdrop that the Commission tentatively concludes that it should vacate the *2008 Leased Access Order.* The FNPRM explains that further support for our tentative finding that we should vacate the *2008 Leased Access Order* arises from the concerns about the paperwork burden set forth in the OMB Notice, where OMB detailed five ways in which certain requirements adopted in the order were inconsistent with the PRA.

22. Regarding specific proposals involving the leased access rules, the Commission invites comment on alternative ways it can reduce burdens on small entities. For example, the Commission proposes to extend the current bona fide request limitation, which only applies to operators of small cable systems, to all operators. The FNPRM seeks information on whether the current bona fide request limitation in any way discourages prospective leased access programmers, including small programmers, from seeking to lease access and if so, how. For example, if prospective leased access programmers indicate that they find it difficult to prepare a request that constitutes a ''bona fide'' request, the Commission will consider such difficulties in determining how to

proceed. To the extent there is currently any negative impact on prospective leased access programmers, including small programmers, the Commission will weigh that impact in determining how to proceed. The FNPRM also considers the timeframe within which cable operators must provide prospective leased access programmers with the information specified in § 76.970(i)(1) of the Commission's rules. The FNPRM considers whether, in the alternative to adopting a single deadline for all cable systems, it should instead maintain a longer deadline for operators of small cable systems. Such an approach could minimize the impact of the leased access rules on small cable system operators. Similarly, in the alternative to permitting all cable operators to require a nominal application fee or deposit before the operator responds to a leased access request by providing the information set forth in § 76.970(i)(1), the FNPRM considers whether it should permit only small cable operators to do so. Such an approach could ease burdens on small cable operators. The FNPRM also considers the impact of requiring a deposit or application fee on small programmers, by asking whether potential leased access programmers, particularly small entities, would be dissuaded from seeking to lease access if faced with a deposit or application fee. The Commission will consider responses to all of these issues in determining how to proceed.

23. This document contains proposed new or revised information collection requirements, including the proposal that all cable operators are required to provide the information specified in § 76.970(i)(1) only in response to a bona fide request from a prospective leased access programmer, and the addition of a provision governing replies to answers to leased access complaints. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

24. *Permit-But-Disclose.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

25. The proposed action is authorized pursuant to sections 4(i), 303, and 612 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 532.

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Amend § 76.970 by revising paragraph (i)(1) and (2) to read as follows:

§ 76.970 Commercial leased access rates.

* * * * *

(i)(1) Cable system operators shall provide prospective leased access programmers with the following information within 15 calendar days of the date on which a bona fide request for leased access information is made:

(i) How much of the operator's leased access set-aside capacity is available;

(ii) A complete schedule of the operator's full-time and part-time leased access rates;

(iii) Rates associated with technical and studio costs; and

(iv) If specifically requested, a sample leased access contract.

(2) Operators of systems subject to small system relief shall provide the information required in paragraph (i)(1) of this section within 30 calendar days of a bona fide request from a prospective leased access programmer. For these purposes, systems subject to small system relief are systems that either:

(i) Qualify as small systems under § 76.901(c) and are owned by a small cable company as defined under § 76.901(e); or

(ii) Have been granted special relief.

* * * * *

■ 3. Amend § 76.975 by revising paragraph (e) and adding paragraph (i) to read as follows:

§ 76.975 Commercial leased access dispute resolution.

* * * * *

(e) The cable operator or other respondent will have 30 days from service of the petition to file an answer. If a leased access rate is disputed, the answer must show that the rate charged is not higher than the maximum permitted rate for such leased access, and must be supported by the affidavit of a responsible company official. If, after an answer is submitted, the staff finds a prima facie violation of our rules, the staff may require a respondent to produce additional information, or

specify other procedures necessary for resolution of the proceeding. Replies to answers must be filed within fifteen (15) days after submission of the answer.

* * * * *

(i) Section 76.7 applies to petitions for relief filed under this section, except as otherwise provided in this section.

[FR Doc. 2018–14014 Filed 6–28–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 211

[Docket DARS–2018–0021]

RIN 0750–AJ23

Defense Federal Acquisition Regulation Supplement: Use of Commercial or Non-Government Standards (DFARS Case 2017–D014)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) implement a section of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), which requires DoD to revise the DFARS to encourage contractors to propose commercial or non-Government standards and industry-wide practices that meet the intent of military specifications and standards.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D014, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS Case 2017–D014.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2017–D014'' on any attached documents.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D014 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(A&S)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to implement section 875(c) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328). Section 875(c) requires DoD to revise the DFARS to encourage contractors to propose commercial or non-Government standards and industry-wide practices that meet the intent of military specifications and standards.

II. Discussion and Analysis

DoD is proposing to amend DFARS 211.107(b) to require the use of Federal Acquisition Regulation (FAR) provision 52.211–7, Alternatives to Government-Unique Standards, in DoD solicitations and contracts that include military or Government-unique specifications and standards; and, in so doing, encourage and permit offerors to propose alternatives to Government-unique standards using an existing FAR provision.

The use of FAR provision 52.211–7 is optional for agencies that report their use of voluntary consensus standards to the National Institute of Standards and Technology using the categorical reporting method. However, Office of Management and Budget (OMB) Circular A–119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, requires, at paragraph 12.a.(4), that agencies using the categorical method of reporting method must ''Enable potential offerors to suggest voluntary consensus standards that can replace Government-unique standards.'' Use of this existing FAR provision will enable DoD to meet the intent of section 875(c).

In response to OMB Circular A–119, the National Institute of Standards and Technology collects reports from Federal Agencies on their use of Government-unique standards, which is reported annually to Congress. DoD statistics used for that report do not differentiate among the many different types of Government-unique Standards. The overriding conceptual approach is to reduce Government reliance on standards produced by Government entities for their own use.

As a matter of existing policy, DoD discourages the use of military specifications and standards in solicitations. As stated in DoD Directive 5000.01: ''When using performance-based strategies, contract requirements shall be stated in performance terms, limiting the use of military specifications and standards to Government-unique requirements only.'' However, to meet the intent of section 875(c) of the NDAA for FY 2017, DoD is proposing to amend DFARS 211.107(b) to require the use of FAR provision 52.211–7, Alternatives to Government-Unique Standards, in DoD solicitations and contracts that include military or Government-unique specifications and standards to encourage and permit offerors to propose alternatives to Government-unique standards.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and Contracts for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

The purpose of this rule is to implement section 875(c) of the NDAA for FY 2017, which requires DoD to revise the DFARS to encourage contractors to propose commercial or non-Government standards and industry-wide practices that meet the intent of military specifications and standards. DoD does not intend to apply the requirements of section 875(c) to solicitations for contracts valued at or below the SAT or to contracts for commercial items, including COTS items, because such contracts do not generally include or require use of military or Government-unique standards or specifications.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of

E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601 *et. seq.* However, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

This proposed rule implements section 875(c) of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114–328).

The objective of this rule is to clarify the use of FAR 52.211–7, Alternatives to Government-Unique Standards, in DoD solicitations and contracts that include military or Government-unique specifications and standards. This will encourage and permit Offerors to propose alternatives to Government-unique standards by using an existing FAR provision. The legal basis for this rule is section 875(c) of the NDAA for FY 2017 (Pub. L. 114–328).

The rule will apply to both large and small entities to the extent that such entities receive Government solicitations containing Government-unique standards and FAR provision 52.211–7, Alternatives to Government-unique Standards. Such entities may already be familiar with this provision as it has been in place since its publication in 1998 (63 FR 68344, December 10, 1998).

As a matter of policy, DoD discourages the use of military specifications and standards in solicitations. As stated in DoD Directive 5000.01: ''When using performance-based strategies, contract requirements shall be stated in performance terms, limiting the use of military specifications and standards to Government-unique requirements only.''

In addition, between 1994 and 2000, over 29,000 military specifications and standards were cancelled. Of those, 6,100 were canceled without replacement, and 3,500 were superseded by nongovernment standards. Moreover, DoD participates in over 120 private sector standards-developing organizations such as ASTM, ANSI, ISO and IEEE. Voluntary consensus standards adopted by DoD are also listed in the Defense Logistics Agency ASSIST database to identify the source for obtaining the adopted standards.

Based on Federal Procurement Data System data for product service code (PSC) 5342 (hardware, weapon systems), this rule could potentially apply to approximately 757 unique entities, of which 585 are small businesses. This is based on the number of DoD contract awards in fiscal year 2016 for PSC 5342. It cannot be discerned how many of the contract awards required the use of a military specification or standard. Further, given the DoD policy of discouraging the use of military specifications and standards in solicitations, this rule would likely impact no more than 40 offerors or potential contractors (the approximate number of DoD contractors involved in major weapons systems, which are more likely to require Government specifications).

Accordingly, DoD estimates that this rule will have limited application. However, given the fact that some small number of DoD solicitations may include a military specification or standard—generally limited to those involving a major weapons system, this rule would provide a permissive means for offerors to propose reducing regulatory burden on a given solicitation.

This rule does not contain reporting and recordkeeping requirements, since it merely revises guidance to contracting officers for use of FAR clause 52.211–7, Alternatives to Government-unique Standards.

As an alternative to this proposed rule, DoD could create a stand-alone DoD provision. Such a provision, however, would largely duplicate, overlap, and potentially conflict with the requirements of the existing provision at FAR 52.211–7.

DoD does not expect this proposed rule to have a significant economic impact on small entities. The rule will have a positive impact on both large and small contractors, in that they will now be permitted to propose alternatives to Government standards using an existing FAR provision, the same provision used for other, *i.e.,* non-DoD Government solicitations.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no significant alternatives that meet the requirement of the statute.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2017–D014), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB control number 9000–0153, titled, OMB Circular A–119; FAR Sections Affected: 52.211–7 and 53.105.

List of Subjects in 48 CFR Part 211

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 211 is proposed to be amended as follows:

PART 211—DESCRIBING AGENCY NEEDS

■ 1. The authority citation for part 211 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 211.107 to read as follows:

211.107 Solicitation provision.

(b) Use the provision at FAR 52.211–7, Alternatives to Government-Unique Standards, in DoD solicitations that include military or Government-unique specifications and standards.

■ 3. Revise section 211.201 to read as follows:

211.201 Identification and availability of specifications.

Follow the procedures at PGI 211.201 for obtaining specifications, standards, and data item descriptions from the DLA ASSIST database, including DoD adoption notices on voluntary consensus standards.

[FR Doc. 2018–14039 Filed 6–28–18; 8:45 am]

BILLING CODE 5000–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 219, and 252

[Docket DARS–2018–0035]

RIN 0750–AJ21

Defense Federal Acquisition Regulation Supplement: Inapplicability of Certain Laws and Regulations to Commercial Items (DFARS Case 2017–D010)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2017 that addresses the inapplicability of certain laws and regulations to the acquisition of commercial items, including commercially available off-the-shelf items.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D010, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D010 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Instructions: Search for ''DFARS Case 2017–D010.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to implement section 874 of the National Defense Authorization Act for Fiscal Year 2017. Section 874—

- Amends 10 U.S.C. 2375, Relationship of commercial item provisions to other provisions of law, to provide that—
  - No contract for the acquisition of a commercial item, subcontract under a contract for the procurement of a commercial item, or contract for the procurement of a commercially available off-the-shelf (COTS) item shall be subject to any law properly listed in the Federal Acquisition Regulation (FAR) pursuant to 41 U.S.C. 1906 or 1907, respectively; and
  - The DFARS shall include lists of defense-unique provisions of law and contract clause requirements based on Governmentwide acquisition regulations, policies, or Executive orders not expressly authorized in law, that are inapplicable to—
    - The acquisition of a commercial item;
    - Subcontracts for commercial items under a contract for the procurement of commercial items; or
    - Contracts for the procurement of a COTS item;
- Provides that a covered provision of law or contract clause requirement is a provision of law or contract clause requirement that the Under Secretary of Defense for Acquisition, Technology, and Logistics determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law or contract clause requirement that—
  - Provides for civil or criminal penalties;
  - Requires that certain articles be bought from American sources pursuant to 10 U.S.C. 2533a; or requires that strategic materials critical to national security be bought from American sources pursuant to 10 U.S.C. 2533b; or
  - Specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.
- Provides that a covered provision of law or contract clause requirement shall be included on the list unless the Under Secretary of Defense for Acquisition, Technology, and Logistics makes a written determination that such exemption would not be in the best interest of DoD.
- Requires the Under Secretary of Defense for Acquisition, Technology, and Logistics to ensure that, to the maximum extent practicable—
  - The DFARS shall not require the inclusion of contract clauses in contracts for the procurement of commercial items (including COTS items), unless such clauses are required to implement provisions of law or Executive orders applicable to such contracts, or determined to be consistent with standard commercial practice; and
  - The flowdown of contract clauses to subcontracts under contracts for the procurement of commercial items (including COTS items) is prohibited unless such flowdown is required to implement provisions of law or Executive orders applicable to such subcontracts; and
- Defines the term ''subcontract'' to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the DoD and other parties, and are not identifiable to any particular contract.

II. Discussion and Analysis

10 U.S.C. 2375(b)(2) limits the required review of applicability of provisions of law and contract clauses to prime contracts for commercial items to those provisions of law and contract clauses enacted after January 1, 2015. Although the subsequent paragraphs (c) and (d) relating to applicability of provisions of law and contract clauses to subcontracts for commercial items and contracts for COTS items are in all other regards parallel, the date of January 1, 2015, is not repeated in the subsequent paragraphs. DoD has interpreted the date as equally applicable to all three paragraphs, because the three paragraphs are closely inter-related. Any law or clause that is inapplicable to a contract for commercial items is also inapplicable to a contract for COTS items (which are commercial items). The COTS list builds on the list of laws and clauses inapplicable to commercial items in general. Further, laws and clauses that are inapplicable to contracts for commercial items will also be inapplicable to subcontracts for commercial items, even though there may be a few additional laws or clauses that are just inapplicable at the subcontract level.

Therefore, as the first step toward implementation of section 874 of the NDAA for FY 2017 in the DFARS, DoD identified all new DFARS and FAR provisions and clauses published as interim or final rules after January 1, 2015; determined whether these provisions and clauses were based on statute or Executive order, and reviewed their applicability to commercial items.

A. Governmentwide Statutes

Since the DFARS supplements the FAR, the lists of inapplicable statutes at FAR 12.503 through 12.505 are applicable to DoD. This rule proposes language at DFARS 212.503, 212.504, and 212.505, to emphasize that the DFARS lists of statutes are in addition to the FAR lists, not in place of them.

B. Defense-Unique Statutes

Although the following defense-unique statutes were all enacted prior to January 1, 2015, and are therefore not covered statutes as defined in section 874, they are the basis for DFARS provisions and clauses issued after January 1, 2015, and have therefore been reviewed.

1. The Director of Defense Procurement and Acquisition Policy, acting under authority delegated by the Under Secretary of Defense for Acquisition, Technology, and Logistics, has determined that the following statutes apply to the acquisition of commercial items, except for the acquisition of COTS items. Note that services are not COTS items, so no determination is required to exclude applicability to COTS items when acquiring services and the clause prescription and flowdown paragraph of the clause do not specify exclusion of COTS items.

a. Section 941 of the NDAA for FY 2013 and section 1632 of NDAA for FY 2015 (DFARS Case 2013–D018, Network Penetration Reporting and Contracting of Cloud Services (80 FR 51739 and 81 FR 72986); DFARS 252.204–7008, 252.204–7009, and 252.204–7012). This rule proposes to clarify that the flowdown requirement in paragraph (m) of the clause at DFARS 252.204–7012 excludes flowdown to COTS items. Although the final rule under DFARS case 2013–D018 stated the exclusion of applicability to COTS items for all provisions and clauses under the case and the clause prescriptions were amended, the corresponding amendment to paragraph (m) of the clause at DFARS 252.204–7012 did not explicitly exclude flowdown to COTS items. This statute has been added to the proposed list at DFARS 212.505.

b. Section 862 of the NDAA for FY 2008 (DFARS Case 2015–D021, Defense Contractors Performing Private Security Functions (80 FR 81496 and 81 FR 42559); DFARS 252.225–7039). This statute was not added to the proposed list at DFARS 212.505 because it is for the acquisition of services.

2. The Director of Defense Procurement and Acquisition Policy, acting under authority delegated by the Under Secretary of Defense for Acquisition, Technology, and Logistics, determined that section 818(c)(3) of the NDAA for FY 2012, as amended (DFARS Case 2014–D005, Detection and Avoidance of Counterfeit Parts—Further Implementation (80 FR 63735 and 81 FR 50635); DFARS 252.246–7008) applies to the acquisition of commercial items, including COTS items.

3. The following two statutes are currently applied in the DFARS to the acquisition of commercial items, including COTS items. However, continued application to commercial items is dependent upon a determination by the Director of Defense Procurement and Acquisition Policy, acting under authority delegated by the Under Secretary of Defense for Acquisition and Sustainment, with regard to the applicability to commercial items:

a. Section 1611 of the NDAA for FY 2014 (10 U.S.C. 2419) (DFARS Case 2014–D009, Advancing Small Business Growth (79 FR 65917 and 80 FR 30115); DFARS 252.219–7000). The provision at DFARS 252.219–7000, Advancing Small Business Growth, is prescribed at DFARS 219.309 for use in solicitations, including solicitations using FAR part 12 procedures for acquisition of commercial items, when the estimated annual value of the contract is expected to exceed—

- The small business size standard, if expressed in dollars, for the North American Industry Classification System (NAICS) code assigned by the contracting officer; or
- $70 million, if the small business size standard is expressed as number of employees for the NAICS code assigned by the contracting officer.

The provision is also listed at DFARS 212.301(f)(vii) as applicable to the acquisition of commercial items. The provision is inapplicable to subcontracts. This provision does not impose any burden on offerors, but is intended only to advise small businesses that entering into a DoD contract may eventually cause such businesses to exceed the small business size standard.

b. Section 8123 of the DoD Appropriations Act and the same provision in subsequent annual defense appropriations acts (DFARS Case 2015–D005, Acquisition of the American Flag (80 FR 10452 and 80 FR 51748); DFARS 252.225–7006). The clause at DFARS 252.225–7006, Acquisition of the American Flag, is prescribed at 225.7002–3 for use in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that are for the acquisition of the American flag, with an estimated value that exceeds the simplified acquisition threshold, unless an exception at 225.7002–2 applies. The clause is also listed at 212.301(f)(x)(C) as applicable to acquisition of commercial items. The clause does not flow down to subcontracts. Since most, if not all, flags are commercial items, this statute would be without affect if not applied to commercial items. Furthermore, this is an appropriations act restriction, which specifically prohibits the expenditure of any funds appropriated under these acts, unless the flags to be acquired are manufactured in the United States (regardless of whether the flags are commercial items).

C. FAR and DFARS Provisions and Clauses, Issued Since January 1, 2015, Not Expressly Authorized in Law

1. The following DFARS and FAR provisions are not required for use in solicitations for the acquisition of commercial items, including COTS items. FAR 12.301(e) provides for discretionary use of provisions and clause not required for use solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when their use is consistent with the limitations contained in FAR 12.302. These provisions do not apply to subcontracts. Both provisions are proposed for addition to the proposed list at DFARS 212.370. DoD welcomes comments as to whether use of these provisions in solicitations for commercial items should be prohibited, or whether their use might be appropriate for discretionary use.

a. 252.219–7010, Notification of Competition Limited to Eligible 8(a) Concerns—Partnership Agreement (DFARS Case 2015–D017, 80 FR 58669 and 81 FR 17045), is prescribed at DFARS 219.811–3 for use in lieu of the clause at FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of FAR 19.805 and processed in accordance with the partnership agreement cited in DFARS 219.800. It is

not listed at 212.301(f) as applicable to acquisitions using FAR part 12 procedures for the acquisition of commercial items.

This rule proposes to modify the clause prescription to specifically exclude applicability to acquisitions using FAR part 12 procedures for the acquisition of commercial items.

b. 52.204–22, Alternative Line Item Proposals (FAR Case 2013–014, 79 FR 45408 and 82 FR 4709), is prescribed at FAR 4.1008 for use in all solicitations. However, this provision is not prescribed for use in FAR part 12. In accordance with FAR 12.301(d), notwithstanding prescriptions contained elsewhere in the FAR, when acquiring commercial items, contracting officers are only required to use those provisions and clauses prescribed in FAR part 12. This rule proposes to modify the clause prescription to specifically exclude applicability to acquisitions using FAR part 12 procedures for the acquisition of commercial items.

2. The following DFARS and FAR provisions and clause are applicable to the acquisition of commercial items, except for COTS items. In accordance with section 874, continued applicability to commercial items is dependent upon a determination by the Director of Defense Procurement and Acquisition Policy, acting under authority delegated by the Under Secretary of Defense for Acquisition, Technology, and Logistics, with regard to the applicability to commercial items:

a. DFARS 252.239–7009, Representation of Use of Cloud Computing, and 252.239–7010, Cloud Computing Services (DFARS Case 2013–D018, 80 FR 51739, 80 FR 81472, and 81 FR 50635), are prescribed at DFARS 239.7604 for use in solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for information technology services and are also listed at DFARS 212.301(f)(xvi)(A) and (B) as applicable to acquisitions of commercial items. The clause also flows down to all subcontracts that involve or may involve cloud services, including subcontracts for commercial items. This provision and clause are not listed at proposed DFARS 212.371 because this provision and clause apply to the acquisition of services, which are not COTS items.

DoD applies this provision and clause to the acquisition of commercial items, excluding COTS items, because the harm that could result from the loss or compromise of defense information is the same under a FAR part 12 contract as it would be under any other contract. Recent high-profile breaches of Federal information show the need to ensure that information security protections are clearly, effectively, and consistently addressed in contracts. Failure to apply this provision and clause to acquisition of cloud services may cause harm to the Government which could directly impact national security. The information collection requirement for this provision and clause is approved under OMB clearance 0704–0478, Safeguarding Covered Defense Information, Cyber Incident Reporting, and Cloud Computing, in the amount of 250,850 total annual burden hours, which also includes burden hours associated with Safeguarding and cyber incident reporting.

b. FAR 52.204–21, Basic Safeguarding of Covered Contractor Information Systems (FAR Case 2011–020, 77 FR 51496 and 82 FR 4709), is prescribed at FAR 4.1903, for use when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through the information system. FAR 12.301(d)(3) requires use in solicitations and contracts for commercial items (except for acquisitions of COTS items), as prescribed in FAR 4.1903. Paragraph (c) of FAR 52.204–21 requires flowdown to subcontracts, including subcontracts for the acquisition of commercial items, other than COTS items, in which the contractor may have Federal contract information residing in or transiting through its information system. Flowdown to subcontracts for commercial item, other than subcontracts for COTS items, is also required at FAR 52.244–6(c)(1)(iv), if flowdown is required in accordance with FAR 52.204–21(c).

This clause requires only a basic level of safeguarding of contractor information systems reflective of actions any prudent business person would employ. The exclusion of COTS items was incorporated in the final rule in response to public comments. This clause does not impose any information collection burden on contractors.

c. FAR 52.222–62, Paid Sick Leave Under Executive Order 13706 (FAR Case 2017–001, 81 FR 91627, interim rule), is prescribed at FAR 22.2110, for use in solicitations and contracts that include the clause 52.222–6, Construction Wage Rate Requirements, or 52.222–41, Service Contract Labor Standards, where work is to be performed, in whole or in part, in the United States. Use of the clause when using part 12 procedures for the acquisition of commercial items is provided at FAR 52.212–5(c)(9). The clause flows down to all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute and are also to be performed in whole or in part in the United States. Flowdown to commercial subcontracts (excluding COTS items) is provided at FAR 52.212–5(e)(1)(xix) and 52.244–6(c).

This rule implements Executive Order 13706, which does not exempt contracts for the acquisition of commercial items. The implementing regulations by the Department of Labor were issued on September 30, 2016 (81 FR 67598). The rule applies to contracts that are covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and meet or exceed the thresholds specified in those statutes. However, since these statutes do not apply to contracts for acquisition of supplies, the rule does not cover acquisitions of COTS items.

The Executive Order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Government by ensuring that employees on those contracts can earn up to 7 days or more of paid sick leave annually. The Executive order was first implemented in Department of Labor regulations (81 FR 67598), which OIRA declared to be an economically significant rule and a major rule. Most of the costs associated with this rule are transfer costs from employers to employees. The information collection requirements associated with the Department of Labor final rule were cleared under OMB clearances 1235–0018, 1235–0021, 1235–0029. The FAR rule does not impose any additional burdens.

3. The following DFARS and FAR provisions and clause are applicable to the acquisition of commercial items, including COTS items. In accordance with section 874, continued applicability to commercial items is dependent upon a determination by the Director of Defense Procurement and Acquisition Policy, acting under authority delegated by the Under Secretary of Defense for Acquisition, Technology, and Logistics, with regard to the applicability to commercial items:

a. DFARS 252.213–7000, Notice to Prospective Suppliers on Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluation (DFARS Case 2014–D015, 80 FR 4848 and 80 FR 30117), is prescribed at DFARS 213.106–2–70, in competitive solicitations for supplies when using FAR part 13 simplified acquisition procedures, including competitive solicitations using FAR part 12

procedures for the acquisition of commercial item and acquisitions values at less than or equal to $1 million under the authority at FAR subpart 13.5 procedures. This provision is also listed at DFARS 212.301(f)(v) as applicable to solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items. There is no flowdown because this is a provision.

DoD developed and deployed the Past Performance Information Retrieval System—Statistical Reporting (PPIRS–SR) module to fill the need for past performance data on lower dollar value contracts. This objective data on past performance will assist contracting officers in making better-informed best value award decisions on small dollar value acquisitions for supplies, while also eliminating the burden of collecting subjective past performance information on contractors for smaller dollar value contracts. This benefit is equally applicable, whether or not the items to be acquired are commercial. There is no information collection burden on offerors.

b. DFARS 252.229–7014, Taxes—Foreign Contracts in Afghanistan, and 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic treaty Organization Status of Forces Agreement) (DFARS Case 2014–D003, 79 FR 35715 and 80 FR 81467), are prescribed at 229.402–70 (k) and (l), respectively.

• DFARS 252.229–7014, Taxes—Foreign Contracts in Afghanistan, is for use in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan, unless the clause at 252.229–7015 is used.

• DFARS 252.229–7015, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), is for use instead of the clause at 252.229–7014, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, with performance in Afghanistan awarded on behalf of the North Atlantic Treaty Organization (NATO), which are governed by the NATO Status of Forces Agreement (SOFA), if approval from the Director, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, has been obtained prior to each use.

These clause are also listed at DFARS 212.301(f)(xiii) as applicable to solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items. Both clauses flow down to all subcontracts, including subcontracts for commercial items.

The objective of these clauses is to exempt DoD contracts performed in Afghanistan from payment liability for Afghan taxes pursuant to the bilateral security agreement between Afghanistan and the United States and the North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA). DoD applies these two clauses to solicitations and contracts for the acquisition of commercial items, including COTS items, for contracts performed in Afghanistan. Not applying this guidance to contracts for the acquisition of commercial items, including COTS items, would result in DoD paying unnecessary taxes, reducing the funds available for pursuing the war effort in Afghanistan. These clauses do not impose any information collection burden on offerors or contractors.

c. FAR 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons; FAR 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioner; FAR 52.223–20, Aerosols; and FAR 52.223–21, Foams (FAR Case 2014–026, 80 FR 26883 and 81 FR 30429), are prescribed at FAR 23.804(a) for use as follows:

(1) FAR 52.223–11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons, in solicitations and contracts for—

(i) Refrigeration equipment (in product or service code (PSC) 4110);

(ii) Air conditioning equipment (PSC 4120);

(iii) Clean agent fire suppression systems/equipment (*e.g.,* installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);

(iv) Bulk refrigerants and fire suppressants (in PSC 6830);

(v) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850);

(vi) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030);

(vii) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and

(viii) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

(2) FAR 52.223–12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of—

(i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or

(ii) Air conditioners, including air conditioning systems in motor vehicles.

(3) FAR 52.223–20, Aerosols, in solicitations and contracts—

(i) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or

(ii) That involve maintenance or repair of electronic or mechanical devices.

(4) FAR 52.223–21, Foams, in solicitations and contracts for—

(i) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or

(ii) Construction of buildings or facilities. A majority of the acquisitions involving high GWP HFCs involve the acquisition of commercial items. Applicability of the requirements to commercial items is necessary to be effective. The information collection requirements associated with this case are covered under OMB clearance 9000–0191, High Global Warming Potential Hydrofluorocarbons, in the amount of 25,376 total annual burden hours.

d. FAR 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (FAR Case 2015–024, 81 FR 33192 and 81 FR 83092), is prescribed for use at FAR 23.804(b). The provision at 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, is required only when 52.204–7, System for Award Management, is included in the solicitation (see 52.204–8, Annual Representations and Certifications).

The information obtained from these representations will assist agencies in developing strategies to engage with offerors to reduce supply chain emissions, as directed in Executive Order 13693, Planning for Federal Sustainability in the Next Decade. In response to the proposed rule, one respondent remarked that the rule should not exclude commercial item or COTS item vendors from the disclosure requirements, because then the benefits of the rule would be ''sub-optimal.''

The Federal Acquisition Regulatory Council determined that the rule would apply to acquisitions of commercial items, including commercially available off-the-shelf (COTS) items, if the contractor has been awarded contracts of more than $7.5 million in goods and services during the prior Government fiscal year. The FAR Council considered (i) The benefits of the policy in furthering Administration goals; (ii) the extent to which the benefits of the policy would be reduced if exemptions are provided; and (iii) the burden on contractors if the policy is applied to these categories of spend. By developing an inventory of contractor greenhouse gas (GHG) management practices, the Government can more fully understand the current state of activity by companies doing business with the Government and work with contractors over time to develop appropriate strategies to reduce supply chain emissions. GHG reporting is becoming increasingly commonplace in the commercial marketplace. If an exclusion were provided to sellers of commercial items and COTS, a large number of contractors that sell in both the commercial and Federal marketplace would be exempted and the rule would fail at providing the type of information and insight that is needed to help agencies assess supplier GHG management practices. With respect to the third factor, the FAR Council sought to minimize burden associated with the disclosure requirement. Specifically, the disclosure will apply only to major Federal suppliers who have been awarded contracts totaling more than $7.5 million in goods and services in the prior Government fiscal year. Based on fiscal year (FY) 2015 data, the FAR Council estimated this requirement would cover approximately 5,500 unique entities, including about 2,700 small businesses. This represents approximately 3.5 percent of total entities that did business with the Federal Government in FY 2015, and 2.6 percent of small businesses. The FAR Council projected a minimal paperwork burden associated with the disclosure, approximately .25 hours per response for annual reporting for the 5,500 contractor, or 1,375 hours (OMB clearance 9000–0194, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals). Accordingly, the FAR Council determined that it would not be in the best interest of the Government to exclude application of the rule for acquisitions, or sellers, of commercial items or COTS.

D. Limitation on Inclusion of Contract Clauses in Contracts for the Procurement of Commercial Items

Section 874(b) requires that the Under Secretary of Defense for Acquisition, Technology, and Logistics (now Under Secretary of Defense for Acquisition and Sustainment) shall ensure that the DFARS does not require inclusion of contract clauses in contracts for the procurement of commercial items or contracts for the procurement of COTS items, unless those clauses are required to implement provisions of law or executive orders applicable to such contracts, or determined to be consistent with standard commercial practice. This requirement is essentially the same as the requirement at 41 U.S.C. 3307, which is implemented at FAR 12.301(a). Since the DFARS supplements the FAR, FAR 12.301(a) is already applicable to DoD.

E. Prohibition of Flowdown of Certain Contract Clauses to Subcontracts Under Contracts for the Procurement of Commercial Items, Including COTS Items

Currently, FAR clauses 52.212–5, 52.244–6, and DFARS clause 52.244–7000, require flowdown of certain clauses to subcontracts for commercial items, but allow the contractor to flow down ''a minimal number of additional clauses necessary to satisfy its contractual obligations.'' One of the respondents to the proposed rule under DFARS Case 2011–D056, Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items, (Proprietary Industries Association) commented back in May of 2012 that this allowance of a minimal number of necessary clauses was being abused by contractors, who were overloading commercial item subcontracts ''with whatever flowdown clauses they felt were even remotely deemed necessary, regardless of any harmful consequences to the Governments commercial item acquisition process.'' We now have a statutory prohibition on such discretionary overloading of commercial item subcontracts (although still providing ''to the maximum extent practicable). This rule proposes that any discretion to impose flowdown of clauses that are not based on statute or Executive order shall rest with the Government, not with the contractors. They will be prohibited from flowing down FAR or DFARS clauses to commercial items, unless flow down is specifically required in the FAR or DFARS. A contractor can, of course, still impose its own requirements on subcontractors, but cannot just flow down FAR and DFARS clauses as a whole. DoD invites specific comment on the extent to which FAR and DFARS clauses are flowed down to subcontracts on an optional basis and the expected burden reduction that may result from this prohibition.

F. Definition of ''Subcontract''

10 U.S.C. 2375(c)(3) provides a definition of ''subcontract'' that includes transfers of commercial items between divisions, subsidiaries, or affiliates, of a contractor or subcontractor, but excludes supplier agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with DoD and other parties and are not identifiable to any particular contract. This definition is similar to the definition of ''subcontract'' at FAR 44.101, which states that the subcontract is ''entered into by a subcontractor to furnish supplies or services for performance of a prime contract or subcontract,'' but is more explicit in the exclusion of supplier agreements that are not associated with a single contract. This definition has been added to the clause at DFARS 252.244–7000 and each DFARS clause that requires flowdown to subcontracts for the acquisition of commercial items, with specified applicability to the flowdown paragraph of the clause. In general, the clauses now clearly exclude flowdown to supplier agreements that are not identifiable to any particular contract.

However, DoD has determined that the provisions of section 818 of Public Law 112–81 for the prohibitions against counterfeit and suspect counterfeit electronic items and the requirements for systems to detect such parts must flow down to all levels of the supply chain without exception for any contractual instrument that could be used to acquire electronic parts. Therefore, with regard to the DFARS clauses 252.246–7007, Contractor Counterfeit Electronic Part Detection and Avoidance System, and 252.246–7008, Sources of Electronic Parts, the flowdown has been modified to include flowdown to contractual instruments other than subcontracts (such supplier agreements), because electronic commodity types are often acquired from suppliers through supplier agreements that do not meet the new definition of ''subcontract.'' Exempting acquisitions of such electronic parts from the DFARS 252.246–7007 and 252.246–7008 flowdown requirements would create unacceptable risks of introducing counterfeit or suspect counterfeit electronic parts into the

Defense supply chain. Counterfeit electronic parts, regardless of dollar value, can seriously disrupt the DoD supply chain, cause critical failure of fielded systems, such as aircraft, ships, and other weapon systems, and endanger troops' lives.

III. Applicability to Contracts At or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule reviews the current applicability of defense-unique statute and Governmentwide provisions and clause, issued since January 1, 2015, not expressly authorized in law. DoD solicits public comments, especially with regard to the applicability of the two defense-unique statutes at section II.B.3 of this preamble and the FAR and DFARS provisions and clauses at section II.C.2. and II.C.3., for which the Director of Defense Procurement and Acquisition Policy is considering whether to sign a determination and finding in support of continued applicability to commercial items, or whether all commercial items or just COTS items should be exempt from a particular requirement. Please provide specific rationale for any recommendations.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is required in order to implement section 874 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, which amended 10 U.S.C. 2375 and required certain changes to the Defense Federal Acquisition Regulation Supplement (DFARS).

The objective of the rule is to reduce any unnecessary burdens on contractors and subcontractors that were awarded DoD contracts or subcontracts for the acquisition of commercial items, including commercially available off-the-shelf items. The legal basis for the rule is section 874 of the NDAA for FY 2017.

There were 29,833 unique entities awarded DoD contracts exceeding the micro-purchase threshold and using FAR part 12 procedures in FY 2016, of which 21,857 were unique small entities. DoD estimates there may be at least twice that many small entities receiving subcontracts for commercial items. Any reductions in the applicability of provisions and clauses to contracts and subcontracts for the acquisition of commercial items may be beneficial to these small entities.

There are no projected reporting, recordkeeping, or other compliance requirements associated with this rule. The final rule may result in some reductions of reporting or recordkeeping requirements, currently approved under—

- OMB Control Number 0704–0478, Safeguarding Covered Defense Information, Cyber Incident Reporting, and Cloud Computing.
- OMB Control Number 9000–0191, High Global Warming Potential Hydrofluorocarbons.
- OMB Control Number 9000–0194, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

Any impacts of this rule will have a positive impact on small business entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2017–D010), in correspondence.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). However, if some of the requirements are made inapplicable to the acquisition of all commercial items, or just COTS items, then the estimated burden of the following information collection requirements could be reduced:

- OMB Control Number 0704–0478, Safeguarding Covered Defense Information, Cyber Incident Reporting, and Cloud Computing.
- OMB Control Number 9000–0191, High Global Warming Potential Hydrofluorocarbons.
- OMB Control Number 9000–0194, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.

List of Subjects in 48 CFR Parts 212, 219, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 219, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 212, 219, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.001 by adding the definition of ''Subcontract'' in alphabetical order to read as follows:

212.001 Definitions.

* * * * *

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 3. Add section 212.370 to read as follows:

212.370 Inapplicability of certain provisions and clauses to contracts and subcontracts for the acquisition of commercial items, including commercially available off-the-shelf items.

The following provisions and clauses, not expressly authorized in law, are inapplicable to contracts for the acquisition of commercial items:

(a) FAR 52.204–22, Alternative Line Item Proposal.

(b) 252.219–7010, Notification of Competition Limited to Eligible 8(a) Concerns—Partnership Agreement.

■ 4. Add section 212.371 to read as follows:

212.371 Inapplicability of certain provisions and clauses to contracts for the acquisition of commercially available off-the-shelf items.

Commercially available off-the-shelf (COTS) items are a subset of commercial items. Therefore, any provisions and clauses are inapplicable to contracts or subcontracts for the acquisition of COTS items if listed in section 212.370 of this subpart as inapplicable to contracts or subcontracts for the acquisition of commercial items. In addition, the following provisions and clauses published after January 1, 2015, not expressly authorized in law, are inapplicable to the acquisition of COTS items (provisions and clauses for the acquisition of services, which by definition are not COTS items, are not listed):

(a) FAR 52.204–21, Basic Safeguarding of Covered Contractor Information Systems.

(b) Reserved

■ 5. Amend section 212.503 by—

■ a. In the section heading, removing ''executive'' and adding ''Executive'' in its place;

■ b. Revising paragraph (a) introductory text; and

■ c. Amending paragraph (a)(ix) by removing ''(Section 843(a), Public Law 103–160)'' and adding ''(section 843(a), Pub. L. 103–160)''.

212.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

(a) In addition to the laws listed at FAR 12.503, the following laws are not applicable to contracts for the acquisition of commercial items:

* * * * *

■ 6. Amend section 212.504 by—

■ a. Revising paragraph (a) introductory text; and

■ b. In paragraph (a)(xvii), removing ''(Pub. L. 111–118)'' and adding ''(Pub. L. 111–118) (prohibits mandatory arbitration)'' in its place.

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) In addition to the laws listed at FAR 12.504, the following laws are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components:

* * * * *

212.570 [Redesignated as 212.505]

■ 7. Redesignate section 212.570 as 212.505 and revise newly redesignated section 212.505 to read as follows:

212.505 Applicability of certain laws to contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

Commercially available off-the-shelf (COTS) items are a subset of commercial items. Therefore, any laws listed at FAR 12.503, FAR 12.504, 212.503, or 212.504 are also inapplicable or modified in their applicability to contracts or subcontracts for the acquisition of COTS items. In addition to the laws listed at FAR 12.505 as specifically inapplicable to COTS items, the following laws are inapplicable to contracts or subcontracts for the acquisition of COTS items:

(1) Paragraph (a)(1) of 10 U.S.C. 2533b, Requirement to buy strategic materials critical to national security from American sources, except as provided at 225.7003–3(b)(2)(i).

(2) Section 941 of the National Defense Authorization Act for Fiscal Year 2013 (Reports to Department of Defense on penetration of networks and information systems of certain contractors) and section 1632 of the National Defense Authorization Act for Fiscal year 2015 (Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors).

PART 219—SMALL BUSINESS PROGRAMS

■ 8. Amend section 219.811–3 by revising paragraph (2) to read as follows:

219.811–3 Contract clauses.

* * * * *

(2) Use the clause at 252.219–7010, Notification of Competition Limited to Eligible 8(a) Concerns-Partnership Agreement, in lieu of the clause at FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, in competitive solicitations and contracts, excluding solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the acquisition is accomplished using the procedures of FAR 19.805 and processed in accordance with the partnership agreement cited in 219.800.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 9. Amend section 252.204–7009 by—

■ a. Removing the clause date of ''(OCT 2016)'' and adding ''(DATE)'' in its place; and

■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.204–7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

* * * * *

(a) * * *

Subcontract, as used in paragraph (c) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 10. Amend section 252.204–7012 by—

■ a. Removing the clause date of ''(OCT 2016)'' and adding ''(DATE)'' in its place; and

■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order; and

■ c. Revising paragraph (m)(1).

The addition and revision reads as follows:

252.204–7012 Safeguarding Covered Defense Information and Cyber Incident Reporting.

* * * * *

(a) * * *

Subcontract, as used in paragraph (m) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(m) * * *

(1) Include this clause, including this paragraph (m), without alteration except to identify the parties, in subcontracts, or similar contractual instruments, for operationally critical support, or for

which subcontract performance will involve covered defense information, including subcontracts for commercial items, except subcontracts for commercially available off-the-shelf items. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

* * * * *

■ 11. Amend section 252.204–7014 by—
■ a. Removing the clause date of ''(MAY 2016)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.204–7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

* * * * *

(a) * * *

Subcontract, as used in paragraph (f) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 12. Amend section 252.204–7015 by—
■ a. Removing the clause date of ''(MAY 2016)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.204–7015 Notice of Authorized Disclosure of Information for Litigation Support.

* * * * *

(a) * * *

Subcontract, as used in paragraph (c) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 13. Amend section 252.211–7003 by—
■ a. Removing the clause date of ''(MAR 2016)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.211–7003 Item Unique Identification and Valuation.

* * * * *

(a) * * *

Subcontract, as used in paragraph (g) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3)

* * * * *

■ 14. Amend section 252.223–7008 by—
■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.223–7008 Prohibition of Hexavalent Chromium.

* * * * *

(a) * * *

Subcontract, as used in paragraph (d) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 15. Amend section 252.225–7009 by—
■ a. Removing the clause date of ''(OCT 2014)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.

* * * * *

(a) * * *

Subcontract, as used in paragraph (e) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 16. Amend section 252.225–7039 by—
■ a. Removing the clause date of ''(JUN 2016)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.225–7039 Defense Contractors Performing Private Security Functions Outside the United States.

* * * * *

(a) * * *

Subcontract, as used in paragraph (f) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 17. Amend section 252.229–7014 by—
■ a. Removing the clause date of ''(DEC 2015)'' and adding ''(DATE)'' in its place;
■ b. Redesignating paragraph (b) as paragraph (b)(2);

■ c. Redesignating paragraph (a) as paragraph (b)(1);
■ d. Adding a new paragraph (a);
■ e. In paragraph (e), adding a paragraph heading.

The additions read as follows:

252.229–7014 Taxes—Foreign Contracts in Afghanistan.

* * * * *

(a) *Definition.* As used in this clause—

Subcontract, as used in paragraph (e) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract.

* * * * *

(e) *Subcontracts.* * * *

* * * * *

■ 18. Amend section 252.229–7015 by—
■ a. Removing the clause date of ''(DEC 2015)'' and adding ''(DATE)'' in its place;
■ b. Redesignating paragraph (b) as paragraph (b)(2);
■ c. Redesignating paragraph (a) as paragraph (b)(1);
■ d. Adding a new paragraph (a);
■ e. In paragraph (e), adding a paragraph heading.

The additions read as follows:

252.229–7015 Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement).

* * * * *

(a) *Definition.* As used in this clause—

Subcontract, as used in paragraph (e) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(e) *Subcontracts.* * * *

* * * * *

■ 19. Amend 252.237–7010 Prohibition on Interrogation of Detainees by Contractor Personnel by—
■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.237–7010 Prohibition on Interrogation of Detainees by Contractor Personnel.

* * * * *

(a) * * *

Subcontract, as used in paragraph (c) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 20. Amend section 252.237–7019 by—
■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.237–7019 Training for Contractor Personnel Interacting with Detainees.

* * * * *

(a) * * *

Subcontract, as used in paragraph (c) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 21. Amend section 252.239–7010 by—
■ a. Removing the clause date of ''(OCT 2016)'' and adding ''(DATE)'' in its place; and
■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order to read as follows:

252.239–7010 Cloud Computing Services.

* * * * *

(a) * * *

Subcontract, as used in paragraph (l) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

■ 22. Amend section 252.244–7000 by—
■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place;
■ b. Removing paragraph (b);
■ c. Redesignating paragraph (a) as paragraph (b);
■ d. Adding a new paragraph (a);
■ e. Revising the newly redesignated paragraph (b); and
■ f. In paragraph (c), adding a paragraph heading.

The additions read as follows:

252.244–7000 Subcontracts for Commercial Items.

* * * * *

(a) *Definition.* As used in this clause—

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

(b) The Contractor shall not flow down the terms of any Federal Acquisition Regulation (FAR) clause or Defense Federal Acquisition Regulation Supplement (DFARS) clause in subcontracts for commercial items at any tier under this contract, unless—

(1) For DFARS clauses, it is so specified in the particular clause; or

(2) For FAR clauses, the clause is listed at FAR 12.301(d) or it is so specified in paragraph (e)(1) of the clause at FAR 52.212–5 or paragraph (b)(1) of the clause at FAR 542.244–6, as applicable.

(c) *Subcontracts.* * * *

* * * * *

■ 23. Amend section 252.246–7003 by—

■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (a) adding the definition of ''Subcontract'' in alphabetical order and revising the definition of ''Subcontractor;

■ c. In paragraph (f)(1), adding a paragraph heading.

The additions and revision read as follows:

252.246–7003 Notification of Potential Safety Issues.

* * * * *

(a) * * *

Subcontract, as used in paragraph (f) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

Subcontractor means any supplier, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

* * * * *

(f)(1) *Subcontracts.* * * *

* * * * *

■ 24. Amend section 252.246–7007 by—

■ a. Removing the clause date of ''(AUG 2016)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order;

■ c. In paragraph (c)(9), removing ''subcontractors'' and adding ''subcontractors or other suppliers'' in its place; and

■ d. Revising paragraph (e).

The addition and revision read as follows:

252.246–7007 Contractor Counterfeit Electronic Part Detection and Avoidance System.

* * * * *

(a) * * *

Subcontract, as used in paragraph (e) of this clause, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(e) *Subcontracts.* The Contractor shall include the substance of this clause, excluding the introductory text and including only paragraphs (a) through (e), in subcontracts and other contractual instruments, including subcontracts and other contractual instruments for commercial items, that are for electronic parts or assemblies containing electronic parts.

* * * * *

■ 25. Amend section 252.246–7008 by—

■ a. Removing the clause date of ''(DEC 2017)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order;

■ c. In paragraph (b)(3)(i)(A)(*2*), removing ''subcontractor'' and adding ''subcontractor or other supplier'' in its place; and

■ d. Revising paragraph (e).

The addition and revision read as follows:

252.246–7008 Sources of Electronic Parts.

* * * * *

(a) * * *

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(e) *Subcontracts and other contractual instruments.* The Contractor shall include the substance of this clause, including this paragraph (e), in subcontracts and other contractual instruments, including subcontracts and other contractual instruments for commercial items, that are for electronic parts or assemblies containing electronic parts, unless the subcontractor or supplier is the original manufacturer.

* * * * *

■ 26. Amend section 252.247–7003 by—

■ a. Removing the clause date of ''(JUN 2013)'' and adding ''(DATE)'' in its place;

■ b. Redesignating paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d);

■ c. Adding a new paragraph (a); and

■ d. In the newly redesignated paragraph (d), adding a paragraph heading.

The additions read as follows:

252.247–7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer.

* * * * *

(a) *Definitions.* As used in this clause—

Subcontract, as used in paragraph (d) of this contract, means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(d) *Subcontracts.* * * *

* * * * *

■ 27. Amend section 252.247–7023 by—

■ a. Removing the clause date of ''(APR 2014)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order; and

■ c. In paragraph (h), adding a new paragraph heading.

■ d. In Alternate I—

■ i. Removing the clause date of ''(APR 2014)'' and adding ''(DATE)'' in its place;

■ ii. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order; and
■ iii. In paragraph (h), adding a new paragraph heading.
■ e. In Alternate II—
■ i. Removing the clause date of ''(APR 2014)'' and adding ''(DATE)'' in its place;
■ ii. In paragraph (a), adding the definition of ''Subcontract'' in alphabetical order; and
■ iii. In paragraph (h), adding a new paragraph heading.

The additions read as follows:

252.247–7023 Transportation of Supplies by Sea.

* * * * *

(a) * * *

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract.

* * * * *

(h) *Subcontracts.* * * *

* * * * *

Alternate I. * * *

* * * * *

(a) * * *

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(h) *Subcontracts.* * * *

* * * * *

Alternate II. * * *

* * * * *

(a) * * *

Subcontract means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. The term—

(1) Includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractors or subcontractor; and

(2) Does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract. (10 U.S.C. 2375(c)(3))

* * * * *

(h) *Subcontracts.* * * *

* * * * *

[FR Doc. 2018–14043 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215 and 252

[Docket DARS–2018–0008]

RIN 0750–AJ19

Defense Federal Acquisition Regulation Supplement: Only One Offer (DFARS Case 2017–D009)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to partially implement a section of the National Defense Authorization Act for Fiscal Year 2017 to address the requirement for certification of cost or pricing data and potential submission of additional certified cost or pricing data when only one offer is received in response to a competitive solicitation.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D009, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS Case 2017–D009.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2017–D009'' on any attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D009 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to partially implement section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) to (1) address the potential requirement for certification of cost or pricing data and potential requirement for additional certified cost or pricing data when only one offer is received in response to a competitive solicitation and (2) make prime contractors responsible for determining whether a subcontract qualifies for an exception from the requirement for submission of certified cost based on adequate price competition. This DFARS rule supplements the rule proposed under FAR Case 2017–006, Exception from Certified Cost or Pricing Data Requirements-Adequate Price Competition, which proposes to modify the standards for adequate price competition at FAR 15.403–1(c) for DoD, NASA, and the Coast Guard (83 FR 27303, June 12, 2018). Section 822 requires that for DoD, NASA, and the Coast Guard, adequate price competition requires a price that is based on adequate competition that results in at least two or more responsive and viable offers from independently competing offerors.

II. Discussion and Analysis

A. Current DFARS

DoD published a final rule in the **Federal Register** on June 29, 2012 (77 FR 39126) to address acquisitions using competitive procedures in which only one offer is received (DFARS Case 2011–D013). That rule was initiated to implement one of the aspects of the initiative on promoting real competition that was presented by the Under Secretary of Defense for Acquisition, Technology, and Logistics in the

November 3, 2010, memorandum entitled, ''Implementation Directive for Better Buying Power—Obtaining Greater Efficiency and Productivity in Defense Spending.'' The rule created a new section at DFARS 215.371 and a provision at DFARS 252.215–7008, both entitled ''Only One Offer.'' The provision requires that an offeror agree to submit additional cost or pricing data if the contracting officer notifies the offeror that only one offer was received in response to a solicitation, and additional cost or pricing data are required in order to determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost or pricing data (10 U.S.C. 2306a and FAR 15.403–3).

B. Proposed Changes

1. Exception at FAR 15.403–1(b)

Once it has been determined that only one offer was received, the exception to the requirement for certified cost or pricing data based on adequate price competition at FAR 15.403–1(b)(1) can no longer apply. Therefore, cross references to FAR 15.403–1(b) are limited to the other exceptions at paragraphs (b)(2) through (5) of that section (see DFARS 215.371–3(a) and (b) and 252.215–7008(a)(2)).

2. Standard at FAR 15.403–1(c)(1)(ii) and DFARS 215.371–3(a)

When there is a reasonable expectation of competition, but only one offer is received, FAR 15.403–1(c)(1)(ii) allows in limited circumstances, with approval at a level above the contracting officer, a determination that the proposed price was based on adequate price competition and was reasonable. Without such determination, certified cost or pricing data would be required for acquisitions that exceed the threshold for obtaining certified cost or pricing data, unless another exception at FAR 15.403–1(b) applies. This limited exception, based on a determination at a level above the contracting officer, is no longer applicable to DoD. Therefore, DFARS 215.371–3(a) is removed.

3. Requirements at DFARS 215.371–3(b)

The requirements at DFARS 215.371–3(b) are streamlined (proposed as DFARS 215.371–3(a) through (d)), with additional emphasis on the requirement to obtain certified cost or pricing data when only one offer is received. The introductory text is also revised to exempt contracts valued at or below simplified acquisition threshold.

4. Prescriptions at DFARS 215.408

The prescription at DFARS 215.408(3)(i) for DFARS provision 252.215–7008 is also being revised to exempt contracts valued at or below simplified acquisition threshold and remove the reference to the exceptions at DFARS 215.371–4(a), which are not applicable to the requirement to obtain certified cost or pricing data. In addition, paragraph (3)(ii) of the prescription is removed; the requirement to use the provision at DFARS 252.215–7010 (previously FAR 52.215–20) in solicitations that include DFARS 252.215–7008 is relocated to the prescription for DFARS 252.215–7010 at DFARS 215.408(5).

5. Streamlining DFARS 252.215–7008

DFARS provision 252.215–7008 covers the requirements for when only one offer is received in response to a DoD solicitation, but also contains much of the same text as FAR provision 52.215–20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, because this provision was prescribed for use in lieu of the FAR provision. However, on January 31, 2018, DoD published a final rule in the **Federal Register** (83 FR 4431) under DFARS Case 2016–D006, Procurement of Commercial Items, which prescribes the use of a new DFARS provision 252.215–7010, Requirement for Certified Cost or Pricing Data and Data Other than Certified Cost or Pricing Data (Basic and Alternate), in lieu of the provisions at FAR 52.215–20, of the same title. DFARS 252.215–7010 now also contains much of the same text as FAR 52.215–20, as well as DoD specific requirements based on statute. Since DFARS 252.215–7010 is always used when 252.215–7008 is included in a solicitation, DFARS 252.215–7008 is streamlined to only address requirements for when only one offer is received in response to a DoD solicitation by removing all text now covered by DFARS 252.215–7010.

6. Responsibility of Offeror With Regard to Subcontractors

In addition, a new paragraph is added to DFARS 252.215–7010 (basic and alternate), to state that the offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost on the basis of adequate price competition.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not create a new provision, but amends the existing provisions at DFARS 252.215–7008 and 252.215–7010. Although the existing provisions apply to solicitations for the acquisition of commercial items (including COTS items), the changes due to this rule do not impact the acquisition of commercial item, including COTS items, because the rule retains the exceptions to the requirements for certified cost or pricing data relating to acquisition of commercial items. In addition, DFARS 252.215–7010 already applies to contracts valued at or below the SAT, while DFARS 252.215–7008 does not.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This final rule is not subject to E.O. 13771, Reducing Regulation and controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. However, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

The reason for this rule is to further implement section 822 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) to (1) address the potential requirement for certified cost or pricing data when only one offer is received in response to a competitive solicitation, if no other exception to the requirements for certified cost or pricing data applies; and (2) make prime contractors responsible for determining whether a subcontract qualifies for an exception from the requirement for submission of certified cost based on adequate price competition. This DFARS rule

supplements the rule proposed by DoD, GSA, and NASA under FAR Case 2017–006, which proposes to modify the standards for adequate price competition at FAR 15.403–1(c) for DoD, NASA, and the Coast Guard.

The objective of this rule is to implement the new and more restrictive standard for ''adequate price competition'' as the basis for an exception to the requirement to provide certified cost or pricing data. The statutory basis is 10 U.S.C. 2306a, as amended by section 822 of the NDAA for FY 2017. DoD will now be required to obtain certified cost or pricing data from an offeror when only one offer is received and no other exception applies.

According to data for FY 2016 from the Federal Procurement Data System, there were 918 noncommercial, competitive new DoD awards valued at greater than $750,000 (the certified cost or pricing data threshold) that were awarded on the basis of a solicitation that received only one offer. Of the 918 awards, 549 were awarded to small businesses (428 unique small entities). DoD estimates that of these awards, all would require certification under the new rule, and might also require submission of additional data. With regard to subcontracts, DoD estimates that when certification or additional certified cost or pricing data are requested from the prime contractor, 1386 subcontract awards may be affected, of which 1,505 are awarded to small businesses (1,141 unique small entities). In addition, DoD awarded 839 negotiated contracts and orders valued as more than $750,000, for which certified cost or pricing data were required. DoD estimates that for each prime contractor providing certified cost or pricing data, there may be an average of one additional competitive subcontract for which certified cost or pricing data will now be required because there is only one offer on that subcontract. DoD estimated that 703 of those subcontracts are awarded to small businesses (504 unique small entities).

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD was unable to identify any alternatives that would reduce burden on small business and still meet the requirements of the statute. Impact on small businesses is lessened because the requirement for certified cost or pricing data only applies to acquisitions that exceed $750,000 and there is an exception for the acquisition of commercial items, including COTS items.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2017–D009), in correspondence.

VIII. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request for approval of a new information collection requirement concerning Only One Offer (DFARS Case 2017–D009) to the Office of Management and Budget.

A. Public Reporting Burden. Public reporting burden for this collection of information is estimated to average about 37.7 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden estimated as follows:

Respondents: 2,079.

Responses per respondent: 1.73, approximately.

Total annual responses: 3,593.

Preparation hours per response: 37.7 hours, approximately.

Total response Burden Hours: 135,330.

B. Request for Comments Regarding Paperwork Burden.

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Jasmeet_K._Seehra@omb.eop.gov,* with a copy to the Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *osd.dfars@mail.mil.* Include DFARS Case 2017–D009 in the subject line of the message.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 215 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 215 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

■ 2. Revise section 215.371–3 to read as follows:

215.371–3 Fair and reasonable price and the requirement for additional cost or pricing data.

For acquisitions that exceed the simplified acquisition threshold, if only one offer is received when competitive procedures were used and it is not necessary to resolicit in accordance with 215.371–2(a), then—

(a) If no additional cost or pricing data are required to determine through cost or price analysis that the offered price is fair and reasonable, the contracting officer shall require that any cost or pricing data provided in the proposal be certified if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply.

(b) Otherwise, the contracting officer shall obtain additional cost or pricing

data to determine a fair and reasonable price. If the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply, the cost or pricing data shall be certified.

(c) If the contracting officer is still unable to determine that the offered price is fair and reasonable, the contracting officer shall enter into negotiations with the offeror to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

(d) If the contracting officer is unable to negotiate a fair and reasonable price, see FAR 15.405(d).

■ 3. Amend section 215.408 by—

■ a. Revising paragraph (3); and

■ b. In paragraph (5) introductory text, removing ''required'' and adding ''required or when using the provision at DFARS 252.215–7008'' in its place.

The revision reads as follows:

215.408 Solicitation provisions and contract clauses.

* * * * *

(3) Use the provision at 252.215–7008, Only One Offer, in competitive solicitations that exceed the simplified acquisition threshold, including solicitations using FAR part 12 procedures for the acquisition of commercial items.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 252.215–7008 by—

■ a. Removing the provision date ''(OCT 2013)'' and adding ''(DATE)'' in its place;

■ b. Revising paragraph (a);

■ c. Removing paragraphs (b) and (d);

■ d. Redesignating paragraph (c) as paragraph (b); and

■ e. Adding a new paragraph (c).

The revision and addition read as follows:

252.215–7008 Only One Offer.

* * * * *

(a) After initial submission of offers, if the Contracting Officer notifies the Offeror that only one offer was received, the Offeror agrees to—

(1) Submit any additional cost or pricing data that is required in order to determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost or pricing data (10 U.S.C. 2306a and FAR 15.403–3); and

(2) Except as provided in paragraph (b) of this provision, if the acquisition exceeds the certified cost of pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403–1(b)(2) through (5) does not apply, certify all cost or pricing data in accordance with paragraph (c) of provision 252.215–7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, of this solicitation.

* * * * *

(c) *Subcontracts.* Unless the Offeror is the Canadian Commercial Corporation, the Offeror shall insert the substance of this provision, including this paragraph (c), in all subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

■ 5. Amend section 252.215–7010 by—

■ a. In the basic provision—

■ i. Removing the provision date of ''(JAN 2018)'' and adding ''(DATE)'' in its place;

■ ii. In paragraph (c), adding new paragraph (3);

■ b. In the Alternate I clause—

■ i. Removing the provision date of ''(JAN 2018)'' and adding ''(DATE)'' in its place; and

■ ii. In paragraph (c), adding new paragraph (3).

The additions read as follows:

252.215–7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

* * * * *

(c) * * *

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, *i.e.* two or more responsible offerors, competing independently, submit responsive and viable offers in accordance with FAR 15.403–1(c)(1)(ii).

* * * * *

Alternate I. * * *

* * * * *

(c) * * *

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, *i.e.* two or more responsible offerors, competing independently, submit responsive and viable offers in accordance with FAR 15.403–1(c)(1)(ii).

* * * * *

[FR Doc. 2018–14062 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 217 and 252

[Docket DARS–2018–0036]

RIN 0750–AJ87

Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clause ''Surge Option'' (DFARS Case 2018–D025)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise a clause to reflect current terminology and industry practices, pursuant to action taken by the Regulatory Reform Task Force.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D025, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2018–D025'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2018–D025.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2018–D025'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2018–D025 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD (A&S) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to revise the DFARS by modifying DFARS clause 252.217–7001, Surge Option, to replace the term ''Production Surge Plan (DI–MGMT–80969)'' with ''Capabilities Analysis Plan (CAP)'' and add text to permit the option increase of supplies or services called for under the clause to be expressed as a specific number. The associated clause prescription at DFARS 217.208–70(b) is proposed to be amended to reflect that the option increase of supplies or services may also be expressed as a specific number.

This clause is incorporated into contracts that support industrial planning for selected essential military items in the event of a national emergency. Currently, the clause advises contractors that the Government has the option to increase the supplies or services delivered under the contract up to a specified percentage or accelerate the rate of delivery. It also instructs contractors to follow the Production Surge Plan (DI MGMT 80969) included in the contract or, if no plan is in the contract, to provide a delivery schedule to the Government within 30 days of contract award. A review of the clause text indicates that it should be modified to reflect current practices in the marketplace.

II. Discussion and Analysis

Paragraphs (b)(1) and (2) of DFARS clause 252.217–7001 include a reference to a Production Surge Plan (DI MGMT 80969). DoD subject matter experts advise that Production Surge Plan (DI MGMT 80969) is no longer an up-to-date reference and that Capabilities Analysis Plan (CAP) is the current terminology used in industrial planning efforts. This rule will update the clause paragraphs to reflect the current industry terminology.

Paragraph (a) of the DFARS clause provides contractors with a maximum quantity of supplies or services by which the Government may increase the contract in order to support a surge need. This quantity is expressed as a percentage of the supplies or services currently being provided for under the contract. Supply chains supporting surge needs more commonly express increases of supplies or services as a specific number of additional supplies or services to be provided under the contract, as opposed to an additional percentage of the supplies or services already being provided under the contract. In order to reflect current supply chain practices, this rule proposes to permit the contracting officer to express DoD's surge need as a specific quantity of supplies or services needed, or utilize the existing method of expressing the surge need as a percentage of contracted supplies or services.

The proposed revision to this DFARS clause supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this clause. Subsequently, the DoD Task Force reviewed the requirements of DFARS 252.217–7001, Surge Option, and determined that the DFARS coverage should be revised to align with industry practice.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not propose to create any new provisions or clauses. The proposed changes to DFARS clause 252.217–7001, Surge Option, are minimal and reflect only updates required to mirror current industry terminology and practice for support that may be required for industrial planning for selected essential military items in the event of a national emergency. The rule applies to contracts below the SAT, however, the rule does not apply to commercial items and COTS items.

IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* because the rule is only updating a term used in the clause and However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise a clause to reflect current terminology and industry practices, pursuant to action taken by the Regulatory Reform Task Force.

The objective of this proposed rule is to improve the flexibility offered to contractors when submitting pricing by giving the option to quote prices by percentage or quantity increases and update the terminology used from ''Production Surge Plan'' to ''Capability Analysis Plan'' (CAP). The modification of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force.

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Based on fiscal year 2017 data from the Federal Procurement Data System, the Government issued approximately 78 contract actions that cited mobilization as the reason for other than full and open competition for the surge option. Of the 78 total contract actions, approximately 33 awards were made to 24 unique small businesses entities.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. This rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the

proposed rule that would meet the proposed objectives.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 217 and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 217 and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 217 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 217—SPECIAL CONTRACTING METHODS

217.208–70 [Amended]

■ 2. In section 217.208–70, amend paragraph (b)(1), by removing ''percentage'' and adding ''percentage or quantity'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.217–7001 by—

■ a. Removing the clause date of ''(AUG 1992)'' and adding ''(DATE)'' in its place;

■ b. Revising paragraph (a)(1);

■ c. In paragraph (b)(1), removing ''Production Surge Plan (DI–MGMT)'' and adding ''(Capabilities Analysis Plan (CAP)'' in its place; and

■ d. In paragraph (b)(2), removing ''Production Surge Plan'' and adding ''CAP'' in its place.

The revision reads as follows:

252.217–7001 Surge Option.

* * * * *

(a) * * *

(1) Increase the quantity of supplies or services called for under this contract by no more than ____ percent or ____ *[insert quantity and description of services or supplies to be increased];* and/or

* * * * *

[FR Doc. 2018–14040 Filed 6–28–18; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232, 246, 252, and Appendix F to Chapter 2

[Docket DARS–2018–0037]

RIN 0750–AJ44

Defense Federal Acquisition Regulation Supplement: Electronic Submission and Processing of Payment Requests and Receiving Reports (DFARS Case 2016–D032)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify policies and procedures for submission of payment requests and receiving reports in electronic form.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2016–D032, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS Case 2016–D032.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2016–D032'' on any attached documents.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2016–D032 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer D. Johnson, OUSD (A&S) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule clarifies and, where necessary, updates policies and procedures for providing electronic payment-related documents and for processing payment requests and receiving reports in Wide Area WorkFlow (WAWF). Title 10 of the United States Code (U.S.C.), section 2227, Electronic Submission and Processing of Claims for Contract Payments, requires that any claim for payment under a DoD contract be in electronic format. If electronic submission is unduly burdensome, 10 U.S.C. 2227 allows an exemption. DoD published a final rule in the **Federal Register** at 77 FR 38731 on June 29, 2012 (DFARS Case 2011–D027), to update DFARS policies and procedures for electronic submission of payment requests and receiving reports and established WAWF as the accepted DoD system for processing invoices and receiving reports.

Some contractors have been prevented from using WAWF for some contracts because of a misinterpretation of the exemptions in DFARS subpart 232.70, Electronic Submission and Processing of Payment Requests and Receiving Reports. This proposed rule clarifies those exemptions and allows contractors to request permission from the contracting officer, in writing, to submit payment requests and receiving reports using temporary alternative methods, other than in electronic form.

II. Discussion and Analysis

DoD is proposing to amend DFARS parts 232, 246, 252, and Appendix F to clarify and, where necessary, update the policies and procedures for electronic submission of payment requests and receiving reports. The following is a summary of the proposed changes:

- DFARS subpart 232.70, Electronic Submission and Processing of Payment Requests and Receiving Reports. Definitions of the terms ''electronic form,'' ''payment request,'' and ''receiving report'' are inserted in their entirety in lieu of the reference stating that the terms are defined in the clause at DFARS 252.232–7003, Electronic Submission of Payment Requests. The policy on exceptions to submission of payment requests in electronic form is clarified by deleting the current list of exceptions at DFARS 232.7002(a)(ii) and providing a more general exception for cases in which contractor submission of electronic payment requests is not feasible (*e.g.,* when contract performance is in a contingency or austere environment where internet connectivity is not available). This

clarification is necessary to ensure that the exceptions at DFARS 232.7002(a)(ii) are not interpreted as prohibitions against use or submission of payment requests in WAWF. The current language at DFARS 232.7002(a)(ii) is clear in that the use of WAWF is required unless access to WAWF by contractors is not feasible. The revised language in this rule does not change that basic policy. In addition, other text is relocated within the subpart in order to separate policy from procedures.

- DFARS 246.370, Material Inspection and Receiving Report. This section, which contains the prescription for the clause at DFARS 252.246–7000, Material Inspection and Receiving Reports, is deleted, because the clause is being deleted.
- DFARS 246.471, Authorizing Shipment of Supplies. This section is revised to prevent the use of alternative procedures (*e.g.,* allowing the contractor to release supplies for shipment) for foreign military sales contracts. Use of alternative procedures results in no signed receiving report with the packing list, which delays the shipment significantly and may lead to termination of the contract for convenience.
- DFARS 252.232–7003, Electronic Submission and Processing of Payment Requests and Receiving Reports. This clause is revised to clarify that a contractor may use methods other than WAWF to submit a payment request and receiving report when the contracting officer has authorized and provided instructions for the use of nonelectronic methods in the contract administration data section of the contract. The requirement for contractors to submit a receiving report at the time of each delivery of supplies or services under a contract is relocated to this clause from DFARS 252.246–7000, which is being deleted. In addition, policy statements are removed from the definition of ''electronic form;'' and in the definition of ''receiving report,'' a reference to the deleted clause 252.246–7000 is replaced with a reference to DFARS Appendix F, Material Inspection and Receiving Report.
- DFARS 252.232–7006, Wide Area WorkFlow Payment Instructions. This clause is revised to clarify the type of payment request to be used for cost-type line items, fixed-price line items, and various contract financing payments. The use of the WAWF ''combo'' document type and the use of Department of Defense Activity Address Codes are also clarified. The requirement to ensure a receiving report complies with DFARS Appendix F is relocated to this clause from DFARS 252.246–7000, which is being deleted.
- DFARS 252.246–7000, Material Inspection and Receiving Report. This clause is deleted in its entirety because its procedures predate the WAWF automated procedures and processes. Therefore, much of this clause is now obsolete. The relevant text has been relocated to DFARS 252.232–7003, Electronic Submission and Processing of Payment Requests and Receiving Reports.
- Appendix F: Material Inspection and Receiving Report. This appendix is revised to remove a reference to the deleted clause 242.246–7000, to clarify the requirement to enter unit prices on WAWF receiving reports, and to include the requirement to enter estimated prices for foreign military sales shipments if actual prices are not available. Invoice submission and packing list instructions are also clarified.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule proposes to amend the clauses at DFARS 252.232–7003, Electronic Submission and Processing of Payment Requests and Receiving Reports, and 252.232–7006, Wide Area WorkFlow Payment Instructions. The objective of the rule is to clarify and, where necessary, update the policies and procedures for electronic submission of payment requests and receiving reports and amends the two clauses listed below.

DoD plans to continue to apply both clauses to contracts at or below the SAT and to the acquisition of commercial items, including COTS items, as defined at FAR 2.101. This rule clarifies and updates policies and procedures for electronic submission of payment requests and receiving reports. Not applying this guidance to contracts at or below the SAT and for the acquisition of commercial items, including COTS items, would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD plans to apply the rule to contracts at or below the SAT and for the acquisition of commercial items, including COTS items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.,* because the basic requirement for electronic invoicing (a statutory requirement under 10 U.S.C. 2227) already exists. However, an initial regulatory flexibility analysis has been performed.

The objective of the rule is to clarify and, where necessary, update policies and procedures for submission of payment requests and receiving reports in electronic form, which is accomplished through Wide Area WorkFlow (WAWF). The requirement for DoD contractors to submit payment requests in electronic form is already a requirement in existing DFARS clauses. This rule clarifies the exemptions in DFARS subpart 232.70, Electronic Submission and Processing of Payment Requests and Receiving Reports.

In fiscal year 2016, approximately 71,910 small businesses were registered to use WAWF.

This rule allows contractors to request permission, in writing, to submit payment requests and receiving reports using methods other than WAWF. Most small businesses that are DoD contractors are expected to prefer WAWF over other methods because of the advantages of using WAWF. Therefore, DoD estimates that approximately 70 small businesses may submit, on an annual basis, one request each for use of a temporary alternative method of submission of payment requests and receiving reports.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant

alternative approaches to the rule that would meet the requirements.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2016–D032), in correspondence.

VIII. Paperwork Reduction Act

The paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these proposed changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under Office of Management and Budget (OMB) Control Number 0704–0248, Defense Federal Acquisition Regulation Supplement, Appendix F, Inspection and Receiving Report.

List of Subjects in 48 CFR Parts 232, 246, 252, and Appendix F to Chapter 2

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 232, 246, 252, and appendix F to chapter 2 are proposed to be amended as follows:

■ 1. The authority citation for parts 232, 246, 252, and appendix F to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 232—CONTRACT FINANCING

■ 2. Revise section 232.7001 to read as follows:

232.7001 Definitions.

As used in this subpart—

Electronic form means any automated system that transmits information electronically from the initiating system to affected systems.

Payment request means any request for contract financing payment or invoice payment submitted by the contractor under a contract or task or delivery order.

Receiving report means the data prepared in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the DFARS.

■ 3. Revise section 232.7002 to read as follows:

232.7002 Policy.

(a) Payment requests and receiving reports are required to be submitted in electronic form, except for—

(1) Classified contracts or purchases when electronic submission and processing of payment requests and receiving reports could compromise the safeguarding of classified information or national security;

(2) Cases in which contractor submission of electronic payment requests and receiving reports is not feasible (*e.g.,* when contract performance is in an environment where internet connectivity is not available);

(3) Cases in which DoD is unable to receive payment requests or provide acceptance in electronic form;

(4) Cases in which [the contractor has requested permission in writing to submit payment requests and receiving reports by nonelectronic means, and] the contracting officer [has provided instructions for a temporary alternative method of submission of payment requests and receiving reports in the contract administration data section of the contract or task or delivery order (*e.g.,* section G, an addendum to FAR 52.212–4, or applicable clause); and

(5) When the Governmentwide commercial purchase card is used as the method of payment, only submission of the receiving report in electronic form is required.

(b)(1) The only acceptable electronic form for submission of payment requests and receiving reports is Wide Area WorkFlow (*https://wawf.eb.mil/*), except as follows:

(i) For payment of commercial transportation services provided under a Government rate tender, contract, or task or delivery order for transportation services, the use of a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (*e.g.,* PowerTrack, Transportation Financial Management System, and Cargo and Billing System) is permitted.

(ii) For submitting and processing payment requests and receiving reports for contracts or task or delivery orders for rendered health care services, the use of TRICARE Encounter Data System as the electronic form is permitted.

(2) Facsimile, email, and scanned documents are not acceptable electronic forms of payment requests or receiving reports.

■ 4. Revise section 232.7003 to read as follows:

232.7003 Procedures.

(a) DoD officials receiving payment requests in electronic form shall process the payment requests in electronic form. The WAWF system provides the method to electronically process payment requests and receiving reports.

(1) Documents necessary for payment, such as receiving reports, invoice approvals, contracts, contract modifications, and required certifications, shall also be processed in electronic form.

(2) Scanned documents and other commonly used file formats are only acceptable for processing supporting documentation.

(b) If one of the exceptions to submission in electronic form at 232.7002(a) applies, the contracting officer shall—

(1) Consult the payment office and the contract administration office regarding the alternative method to be used for submission of payment requests or receiving reports (*e.g.,* facsimile or conventional mail); and

(2) Provide procedures for invoicing in the contract administration data section of the contract or task or delivery order (*e.g.,* section G, an addendum to FAR 52.212–4, or applicable clause) for submission of invoices by nonelectronic means. If submission of invoices by nonelectronic means is temporary, the procedures should specify the time period for which they apply.

■ 5. Revise section 232.7004 to read as follows:

232.7004 Contract clauses.

(a) Unless an exception to submission in electronic form at 232.7002(a) applies and instructions for invoices are contained in the contract administration data section of the contract or task or delivery order, use the clause at 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

(b) Use the clause at 252.232–7006, Wide Area WorkFlow Payment Instructions, in solicitations and contracts or task or delivery orders, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when 252.232–7003 is used and none of the exceptions at 232.7002(b)(1) apply. See PGI 232.7004 for instructions on completing the clause.

PART 246—QUALITY ASSURANCE

246.370 [Removed]

■ 6. Remove section 246.370.

246.371 [Redesignated as 246.370 and Amended]

■ 6. Redesignate section 246.371 as section 246.370 and remove ''PGI 246.371'' and add ''PGI 246.370'' in its place.

■ 7. Amend section 246.471 by—

■ a. Redesignating paragraphs (b)(2) and (3) as paragraphs (b)(3) and (4);

■ b. In the newly redesignated paragraph (b)(3), removing ''paragraph (b)(1)'' and adding ''paragraph (b)(2)'' in its place.

■ c. Redesignating paragraph (b)(1) as paragraph (b)(2); and

■ d. Adding a new paragraph (b)(1) to read as follows:

246.471 Authorizing shipment of supplies.

* * * * *

(b) * * *

(1) For foreign military sales (FMS) contracts, do not use alternative procedures.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Revise section 252.232–7003 to read as follows:

252.232–7003 Electronic Submission of Payment Requests and Receiving Reports.

As prescribed in 232.7004(a), use the following clause:

Electronic Submission of Payment Requests and Receiving Reports (Date)

(a) *Definitions.* As used in this clause—

Contract financing payment and *invoice payment* have the meanings given in section 32.001 of the Federal Acquisition Regulation.

Electronic form means any automated system that transmits information electronically from the initiating system to affected systems.

Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract or task or delivery order.

Receiving report means the data prepared in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense Federal Acquisition Regulation Supplement.

(b) Except as provided in paragraph (d) of this clause, the Contractor shall submit payment requests and receiving reports in electronic form using Wide Area WorkFlow (WAWF). The Contractor shall prepare and furnish to the Government a receiving report at the time of each delivery of supplies or services under this contract or task or delivery order.

(c) Submit payment requests and receiving reports to WAWF in one of the following electronic formats—

(1) Electronic Data Interchange;

(2) Secure File Transfer Protocol; or

(3) Direct input through the WAWF website.

(d) The Contractor may submit a payment request and receiving report using methods other than WAWF only when—

(1) The Contractor has requested permission in writing to do so, and the Contracting Officer has provided instructions for a temporary alternative method of submission of payment requests and receiving reports in the contract administration data section of this contract or task or delivery order;

(2) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (*e.g.,* PowerTrack, Transportation Financial Management System, and Cargo and Billing System);

(3) DoD makes payment on a contract or task or delivery order for rendered health care services using the TRICARE Encounter Data System; or

(4) The Governmentwide commercial purchase card is used as the method of payment, in which case submission of only the receiving report in WAWF is required.

(e) Information regarding WAWF is available at *https://wawf.eb.mil/.*

(f) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(End of clause)

■ 9. Amend section 252.232–7006 by—

■ a. Removing the clause date of ''(MAY 2013)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (b), removing ''system is'' and ''DFARS 252.232–7003'' and adding ''system provides'' and ''Defense Federal Acquisition Regulation System (DFARS) 252.232–7003'', in their place, respectively;

■ c. In paragraph (c)(1), removing ''*https://www.acquisition.gov*'' and adding ''*https://www.sam.gov*'' in its place;

■ d. Revising paragraph (f); and

■ e. Revising paragraph (g)(2).

The revisions read as follows:

252.232–7006 Wide Area WorkFlow Payment Instructions.

* * * * *

(f) *WAWF payment instructions.* The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) *Document type.* The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.

(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer;

[Contracting Officer: Insert applicable invoice and receiving report document type(s) for fixed price line items that require shipment of a deliverable.]

(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

[Contracting Officer: Insert either ''Invoice 2in1'' or the applicable invoice and receiving report document type(s) for fixed price line items for services.]

(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial item financing, submit a commercial item financing request.

(2) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213–1 is included in the contract.

[Note: The Contractor may use a WAWF ''combo'' document type to create some combinations of invoice and receiving report in one step.]

(3) *Document routing.* The Contractor shall use the information in the Routing Data Table to paragraph (f)(3) only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

ROUTING DATA TABLE TO PARAGRAPH (f)(3) *

Field name in WAWF	Data to be entered in WAWF
Pay Official DoDAAC	
Issue By DoDAAC	
Admin DoDAAC **	
Inspect By DoDAAC	
Ship To Code	
Ship From Code	
Mark For Code	
Service Approver (DoDAAC)	
Service Acceptor (DoDAAC)	
Accept at Other DoDAAC	
LPO DoDAAC	
DCAA Auditor DoDAAC	
Other DoDAAC(s)	

[Contracting Officer: Insert applicable DoDAAC information. If multiple ship to/acceptance locations apply, insert ''See Schedule'' or ''Not applicable.''] [** Contracting Officer: If the contract provides for progress payments or performance-based payments, insert the DoDAAC for the contract administration office assigned the functions under FAR 42.302(a)(13).]*

(4) *Payment request.* The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216–7, Allowable Cost and Payment, as applicable.

(5) *Receiving report.* The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) * * *

(2) Contact the WAWF helpdesk at 866–618–5988, if assistance is needed.

* * * * *

252.246–7000 [Removed and Reserved]

■ 10. Remove and reserve section 252.246–7000.

■ 11. Amend appendix F to chapter 2 as follows:

■ a. In section F–102 by—

■ i. Redesignating paragraph (c) as paragraph (b); and

■ ii. Removing paragraph (b).

■ b. In section F–301, revising paragraph (b)(18);

■ c. Revising section F–305;

■ d. Revising section F–306; and

■ e. Amending section F–502, by adding to Table 1, a heading to the column on the right to read ''Number of Copies''.

The revisions read as follows:

F–301 Preparation Instructions

* * * * *

(b) * * *

(18) UNIT PRICE. When using the WAWF RRR, the unit price is the price of the repair, overhaul, or maintenance service from the contract.

(i) The contractor may, at its option, enter unit prices on the WAWF RR, except when the contract has Item Unique Identification (IUID) requirements and the receiving report is being processed in WAWF, the unit price must represent the acquisition cost that will be recorded in the IUID registry. Therefore, in such cases, the unit price is required. See DFARS 252.211–7003, Item Unique Identification and Valuation).

(ii) The contractor shall enter unit prices for each item of property fabricated or acquired for the Government and delivered to a contractor as Government furnished property (GFP). Get the unit price from Section B of the contract. If the unit price is not available, use an estimate. The estimated price should be the contractor's estimate of what the items cost the Government. When the price is estimated, enter ''Estimated Unit Price'' in the description field. When delivering GFP via WAWF to another contractor, WAWF will initiate a property transfer if the vendor who is initiating the WAWF RR is also registered as a vendor property shipper in WAWF and the vendor receiving the property is also a vendor property receiver in WAWF.

(iii) For clothing and textile contracts containing a bailment clause, enter the cited Government furnished property unit value as ''GFP UNIT VALUE'' in the description field.

(iv) For all copies of DD Forms 250 for FMS shipments, enter actual prices, if available. If actual prices are not available, use estimated prices. When the price is estimated, enter an ''E'' after the price.

* * * * *

F–305 Invoice Instructions

Contractors shall submit payment requests and receiving reports in accordance with paragraph (b) of the clause at DFARS

252.232–7003 unless one of the exceptions in paragraph (d) of that clause applies.

F–306 Packing List Instructions

(a) Contractors may use a WAWF processed RR or the WAWF RRR, as a packing list. WAWF provides an option to print the RR or RRR. Contractors can print a RR or RRR from a system other than WAWF if a signed copy is required. In such cases, the contractor shall print the WAWF RR or RRR only after a signature is applied by the Government inspector or authorized acceptor in WAWF. Copies printed from the contractor's system shall be annotated with ''\\original signed in WAWF\\'' in lieu of the inspector or acceptor's signature. Ensure a copy is visible on the outside and one is placed inside the package.

(b) If the contract requires Government source inspection and acceptance at origin, the contractor shall ensure that its packaging documentation includes a RR or RRR that documents inspection, acceptance, or both by the Government inspector or authorized acceptor. A paper DD Form 250 may be used in lieu of WAWF generated RRs or RRRs when one of the exceptions in paragraph (d) of the clause at DFARS 252.232–7003 applies.

* * * * *

[FR Doc. 2018–14063 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS–2018–0018]

RIN 0750–AJ42

Defense Federal Acquisition Regulation Supplement: Submission of Summary Subcontract Reports (DFARS Case 2017–D005)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the entity to which contractors submit Summary Subcontract Reports in the Electronic Subcontracting Reporting System (eSRS) and to clarify the entity that acknowledges receipt of, or rejects, the reports in eSRS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 28, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D005, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS Case 2017–D005.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2017–D005'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D005 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer D. Johnson, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement a policy that streamlines the submission and review of Summary Subcontract Reports (SSRs) for DoD contractors and brings the DFARS into compliance with changes to the Federal Acquisition Regulation (FAR). Instead of submitting multiple SSRs to departments and agencies within DoD, contractors with individual subcontracting plans will submit a single, consolidated SSR in eSRS at the DoD level. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level.

II. Discussion and Analysis

The clause at DFARS 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I currently require contractors to submit SSRs to departments or agencies within DoD. DFARS 252.219–7003 and its Alternate I also inform contractors that the authority to acknowledge receipt of, or reject, SSRs resides with the SSR Coordinator at departments or agencies within DoD. This rule proposes to amend the DFARS clause to require contractors with individual subcontracting plans to submit a consolidated SSR at the DoD level, and to inform contractors that the authority to acknowledge receipt of or reject SSRs under individual subcontracting plans resides with the SSR Coordinator at the DoD level. These amendments will bring DFARS clause 252.219–7003 into compliance with the requirement for a consolidated SSR in FAR clause 52.219–9, Small Business Subcontracting Plan.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule proposes to amend the clause at DFARS 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I. The objective of the rule is to provide clarification on the submission and review of SSRs in eSRS.

DoD does not apply the clause and its Alternate I to solicitations and contracts with a value at or below the SAT, because subcontracting plans are not required at that dollar value.

DoD currently applies the clause and its Alternate I to solicitations and contracts for the acquisition of commercial items, including COTS items, as defined at FAR 2.101. Not applying this guidance to contracts for the acquisition of commercial items, including COTS items, would exclude contracts intended to be included in the streamlined SSRs and undermine the overarching purpose of the rule. Consequently, DoD plans to apply the rule to contracts for the acquisition of commercial items, including COTS items.

IV. Expected Cost Savings

This rule amends the DFARS to implement a policy that streamlines the submission and review of SSRs for DoD contractors. Instead of the current practice of submitting multiple SSRs to various departments or agencies within DoD, contractors with individual subcontracting plans will submit one consolidated SSR at the DoD level in the eSRS. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level.

This rule impacts only large businesses that have individual subcontracting plans and at least one contract with DoD. Although the clause at DFARS 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I currently require large business contractors to submit SSRs to the department or agency within DoD that administers the majority of the contractor's individual subcontracting plans, these contractors frequently must submit SSRs to each department or agency within DoD with which they have contracts. This results in extra work for the contractors and

creates problems with duplicate subcontracting data. By requiring submission and review of SSRs at the DoD level, this rule solves these issues.

The following is a summary of the estimated public cost savings calculated in 2016 dollars at a 7-percent discount rate and in perpetuity:

Annualized Cost Savings	−$25,514
Present Value Cost Savings	−364,492

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at *www.regulations.gov,* search for ''DFARS Case 2017–D005,'' click ''Open Docket,'' and view ''Supporting Documents.''

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 13771

This rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings can be found in section IV. of this preamble.

VII. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because small entities are not required to comply with the clause at DFARS 252.219–7003, Small Business Subcontracting Plan (DoD Contracts), or its Alternate I. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to revise the Defense Federal Acquisition Regulation Supplement (DFARS) to streamline the submission and review of Summary Subcontract Reports (SSRs) in the Electronic Subcontracting Reporting System (eSRS). Instead of submitting multiple SSRs to departments and agencies within DoD, contractors with individual subcontracting plans will submit a single, consolidated SSR in eSRS at the DoD level. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level.

The objective of the rule is to provide clarification on the submission and review of SSRs in eSRS. The rule will bring the clause at DFARS 252.219–7003 and its Alternate I into compliance with the requirement for a consolidated SSR in the Federal Acquisition Regulation clause FAR 52.219–9, Small Business Subcontracting Plan.

The rule applies to DoD contractors who have individual subcontracting plans and must comply with the clause at DFARS 252.219–7003. Small entities are not required to comply with this clause and, therefore, will not be affected by the rule.

The rule does not impose any reporting or recordkeeping requirements on any small entities.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known, significant, alternative approaches to the proposed rule that would meet the requirements of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2017–D005), in correspondence.

VIII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR 252 is proposed to be amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 252.219–7003 by—
■ a. Removing the clause date of ''(APR 2018)'' and adding ''(DATE)'' in its place;
■ b. Revising paragraph (a);
■ c. Revising paragraph (b);
■ d. Revising paragraph (f); and
■ e. In Alternate I—
■ i. Removing the clause date of ''(APR 2018)'' and adding ''(DATE)'' in its place;
■ i. Revising paragraph (a);
■ ii Revising paragraph (b); and
■ iii. Revising paragraph (f).

The revisions read as follows:

252.219–7003 Small Business Subcontracting Plan (DoD Contracts).

* * * * *

(a) *Definitions. Summary Subcontract Report (SSR) Coordinator,* as used in this clause, means the individual who is registered in the Electronic Subcontracting Reporting System (eSRS) at the Department of Defense level and is responsible for acknowledging receipt or rejecting SSRs submitted under an individual subcontracting plan in eSRS for the Department of Defense.

(b) Subcontracts awarded qualified nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (41 U.S.C. 8502–8504), may be counted toward the Contractor's small business subcontracting goal.

* * * * *

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Individual Subcontract Report (ISR) shall be submitted to the contracting officer at the procuring contracting office, even when contract administration has been delegated to the Defense Contract Management Agency.

(ii) Submit the consolidated SSR for an individual subcontracting plan to the ''Department of Defense.''

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) The authority to acknowledge receipt or reject the ISR resides with the contracting officer who receives it, as described in paragraph (f)(1)(i) of this clause.

(ii) The authority to acknowledge receipt of or reject SSRs submitted under an individual subcontracting plan resides with the SSR Coordinator.

* * * * *

Alternate I. * * *

* * * * *

(a) *Definitions. Summary Subcontract Report (SSR) Coordinator,* as used in this clause, means the individual who is registered in the Electronic Subcontracting Reporting System (eSRS)

at the Department of Defense level and is responsible for acknowledging receipt or rejecting SSRs submitted under an individual subcontracting plan in eSRS for the Department of Defense.

(b) Subcontracts awarded to qualified nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (41 U.S.C. 8502–8504), may be counted toward the Contractor's small business subcontracting goal.

* * * * *

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Standard Form 294, Subcontracting Report for Individual Contracts, shall be submitted in accordance with the instructions on that form.

(ii) Submit the consolidated SSR to the ''Department of Defense.''

(2) For DoD, the authority to acknowledge receipt of or reject SSRs submitted under an individual subcontracting plan in eSRS resides with the SSR Coordinator.

* * * * *

[FR Doc. 2018–14069 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 380

[Docket No. FMCSA–2017–0371]

RIN 2126–AC05

ELDT; Commercial Driver's License Upgrade From Class B to Class A

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes to amend the entry-level driver training (ELDT) regulations published on December 8, 2016, titled ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' by adopting a new Class A theory instruction upgrade curriculum to reduce the training time and costs incurred by Class B commercial driver's license (CDL) holders upgrading to a Class A CDL. This NPRM does not propose any changes to behind-the-wheel (BTW) training requirements set forth in the ELDT final rule. This proposal would be a deregulatory action as defined by Executive Order (E.O.) 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' The Agency believes that this modest change in the Class A theory training requirements for Class B CDL holders upgrading to a Class A CDL would maintain the same level of safety established by the ELDT final rule.

DATES: Comments on this notice must be received on or before August 28, 2018.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2017–0371 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations (MC–PSD) Division, FMCSA, 1200 New Jersey Ave SE, Washington, DC 20590–0001, by telephone at 202–366–4325, or by email at *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking (NPRM) is organized as follows:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA–2017–0371), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov,* put the docket number, FMCSA–2017–0371, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial

information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives that is not designated specifically as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2017–0371, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

D. Waiver of Advance Notice of Proposed Rulemaking

Under the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking ''if a proposed rule is likely to lead to the promulgation of a major rule'' (49 U.S.C. 31136(g)(1)). As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

II. Executive Summary

MAP–21 required the issuance of final regulations establishing minimum entry-level driver training requirements addressing the knowledge and skills necessary for the safe operation of a CMV that must be acquired before obtaining a CDL for the first time or upgrading from one class of CDL to another (49 U.S.C. 31305(c)(1)). On December 8, 2016 (81 FR 88732), FMCSA published a final rule establishing minimum ELDT requirements meeting the MAP–21 mandate. Today, as part of the Agency's ongoing effort to review existing regulations to evaluate their continued necessity and effectiveness, FMCSA proposes a new theory instruction upgrade curriculum for Class B CDL holders upgrading to a Class A CDL.

The ELDT final rule required the same level of *theory* training for individuals obtaining a CDL for the first time as for those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA now concludes that, because Class B CDL holders have prior training or experience in the CMV industry, they should not require the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency proposes to add an optional theory instruction upgrade curriculum for Class B CDL holders upgrading to a Class A CDL, which removes eight instructional units involving ''Non-Driving Activities.'' Such units would, however, remain required elements of the theory instruction standard curriculum for any individual obtaining a Class A CDL who *does not* already hold a Class B CDL.

The proposed theory instruction upgrade curriculum for Class B CDL holders would not have a required minimum number of instruction hours, but the training provider would be required to cover all topics in the curriculum and driver-trainees would be required to receive an overall minimum score of 80 percent on the written theory assessment. This approach is consistent with the theory curricula requirements in the ELDT final rule. This NPRM does not propose any changes to BTW (range and public road) training requirements set forth in the ELDT final rule. All driver-trainees, including those who hold a Class B CDL, must demonstrate proficiency in all elements of the BTW curriculum in a Class A vehicle.

Costs and Benefits

The Agency estimates that an annual average of approximately 11,340 driver-trainees would be affected by the proposed rule, with each experiencing a reduction of 27 hours in time spent completing their theory instruction. This results in a substantial cost savings to these driver-trainees, as well as a cost savings to the motor carriers that employ these drivers. The proposed rule would not result in any *increase* in costs. As presented in Table 1, the Agency estimates that the proposed rule would result in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% or a 3% discount rate, representing a decrease in cost or a cost savings. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

TABLE 1—SUMMARY OF THE TOTAL COST OF THE PROPOSED RULE

[In millions of 2014$]

Year	Undiscounted			Discounted	
	Driver-trainee costs	Motor carrier costs	Total costs [a]	Discounted at 3%	Discounted at 7%
2020	[b] ($16.7)	($1.0)	($17.8)	($17.2)	($16.6)
2021	(16.8)	(1.0)	(17.8)	(16.8)	(15.6)
2022	(16.9)	(1.0)	(17.9)	(16.4)	(14.6)
2023	(17.0)	(1.0)	(18.0)	(16.0)	(13.8)
2024	(17.1)	(1.0)	(18.1)	(15.6)	(12.9)
2025	(17.2)	(1.0)	(18.2)	(15.3)	(12.2)

TABLE 1—SUMMARY OF THE TOTAL COST OF THE PROPOSED RULE—Continued

[In millions of 2014$]

Year	Undiscounted			Discounted	
	Driver-trainee costs	Motor carrier costs	Total costs [a]	Discounted at 3%	Discounted at 7%
2026	(17.3)	(1.0)	(18.3)	(14.9)	(11.4)
2027	(17.4)	(1.1)	(18.4)	(14.5)	(10.7)
2028	(17.5)	(1.1)	(18.5)	(14.2)	(10.1)
2029	(17.6)	(1.1)	(18.6)	(13.9)	(9.5)
Total	(171)	(10)	(182)	(155)	(127)
Annualized			(18)	(18)	(18)

Notes:

[a] Total cost values may not equal the sum of the components due to rounding. (The totals shown in this column are the rounded sum of unrounded components.)

[b] Values shown in parentheses are negative values (*i.e.,* less than zero) and represent a decrease in cost or a cost savings.

In the regulatory evaluation for the ELDT final rule, FMCSA estimated that not only would driver-trainees and motor carriers incur costs, but that training providers, SDLAs, and the Federal government would also incur costs as a result of the ELDT final rule. For this proposed rule, FMCSA does not anticipate any change in costs relative to the ELDT final rule for training providers, SDLAs, or the Federal government because the regulatory obligations of these entities, as set forth in the ELDT final rule, are not affected.

The Agency anticipates that there would be no change in the benefits of the ELDT final rule as a result of the proposed rule. In the regulatory evaluation for the ELDT final rule, the Agency estimated quantified benefits for three categories of non-safety benefits, including savings from reductions in fuel consumption, reductions in CO_2 emissions related to those reductions in fuel consumption, and reductions in vehicle maintenance and repair costs. These estimated non-safety benefits were derived from the Speed Management and Space Management instructional units in the Class A theory instruction curriculum in the ELDT final rule. Because these two instructional units remain in the proposed theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from today's proposed rule.

The regulatory evaluation for the ELDT final rule addressed the potential safety benefits of ELDT. In considering the potential safety impacts from today's proposed rule, the Agency notes that Class B CDL holders have prior training or experience in the CMV industry, which serves as an adequate substitute for the eight non-driving instructional units that would be removed from the theory instruction upgrade curriculum. Therefore, the Agency does not anticipate any change in potential safety benefits associated with the proposed rule.

III. Abbreviations and Acronyms

ANPRM Advance Notice of Proposed Rulemaking
ATA American Trucking Associations
BEA Bureau of Economic Analysis
BLS Bureau of Labor Statistics
BTW Behind the Wheel
CDL Commercial Driver's License
CFR Code of Federal Regulations
CLP Commercial Learner's Permit
CMV Commercial Motor Vehicle
CMVSA Commercial Motor Vehicle Safety Act
DOT U.S. Department of Transportation
ELDT Entry-Level Driver Training
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
FR Federal Register
HM Hazardous Materials
IT Information Technology
MAP–21 Moving Ahead for Progress in the 21st Century Act
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
OOS Out-of-Service
PIA Privacy Impact Assessment
PII Personally Identifiable Information
PRA Paperwork Reduction Act
PTDI Professional Truck Driver Institute
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RIN Regulation Identifier Number
SBA Small Business Administration
SDLA State Driver Licensing Agency
§ Section symbol
TPR Training Provider Registry
U.S.C. United States Code

IV. Legal Basis for the Rulemaking

As noted above, FMCSA's publication of the final rule, ''Minimum Training Requirements for Entry-Level Commercial Vehicle Operators'' (81 FR 88732 (Dec. 8, 2016)), satisfied the MAP–21 requirement that the Agency issue ELDT regulations. Today's proposal to amend regulations established by that final rule is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Act of 1984 (the 1984 Act), both as amended, and the Commercial Motor Vehicle Safety Act of 1986 (CMVSA).

The Motor Carrier Act of 1935, codified at 49 U.S.C. 31502(b), provides that ''The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' This NPRM addresses the qualifications of certain motor carrier employees, consistent with the safe operation of CMVs.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Section 211(b) of the 1984 Act (Pub. L. 98–554, 98 Stat. 9851 (Oct. 30, 1984), codified at 49 U.S.C. 31133(a)(10)), grants the Secretary of Transportation broad power in carrying out motor carrier safety statutes and regulations. The 1984 Act grants the Secretary broad authority to issue regulations ''on commercial motor vehicle safety,'' including to ensure that ''commercial motor vehicles are . . . operated safely.'' 49 U.S.C. 31136(a)(1). The remaining statutory factors and requirements in section 31136(a), to the extent they are relevant, are also satisfied here. In accordance with section 31136(a)(2), the elimination of duplicative theory training would not impose any ''responsibilities . . . on

operators of commercial motor vehicles [that would] impair their ability to operate the vehicles safely.'' This rule does not directly address medical standards for drivers (section 31136(a)(3)) or possible physical effects caused by driving CMVs (section 31136(a)(4)). However, to the extent that the various curricula in the 2016 final rule on ELDT address FMCSA's medical requirements for CMV drivers, section 31136(a)(3) was considered and addressed in that rulemaking. FMCSA does not anticipate that drivers will be coerced (section 31136(a)(5)) as a result of this rulemaking. However, we note that the theory training curricula for Class B CDLs, which drivers upgrading to Class A CDLs would continue to receive under today's proposed rule, includes a unit addressing the right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisal simply for stating a safety concern. Driver-trainees would also be instructed in procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

The CMVSA provides, among other things, that the Secretary shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a CMV (49 U.S.C. 31305(a)). This proposed amendment to the ELDT theory training curriculum for the Class A CDL addresses the fitness of specified individuals operating a CMV.

Finally, the Administrator of FMCSA is delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. Chapters 311, 313, and 315 as they relate to commercial motor vehicle operators, programs and safety.

V. Background

On December 8, 2016, FMCSA published a final rule establishing minimum training standards for certain individuals applying for their CDL for the first time; an upgrade of their CDL (*e.g.,* a Class B CDL holder upgrading to a Class A CDL); or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. The final rule, which set forth ELDT requirements for BTW and theory (knowledge) instruction, fulfilled the Congressional mandate in § 32304 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) and was based in part on consensus recommendations from the Agency's Entry-Level Driver Training Advisory Committee (ELDTAC). The ELDT final rule, effective on June 5, 2017 [1] (with a compliance date of February 7, 2020), is the culmination of previous efforts by FMCSA and its predecessor agency, the Federal Highway Administration, to address the issue of CMV driver training standards.[2]

The Department has longstanding processes, which provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified.[3] Consistent with these processes, the Agency proposes to revise the theory training requirements applicable to CMV drivers already holding a Class B CDL who wish to upgrade to a Class A CDL. The requirements pertaining to BTW (range and public road) instruction, as set forth in the ELDT final rule, would remain unchanged for all driver-trainees, including Class B CDL holders upgrading to a Class A CDL.

VI. Discussion of Proposed Rule

The ELDT final rule required the same level of theory training for individuals obtaining a CDL for the first time as those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA concludes that this approach imposes an unnecessary regulatory burden because, due to prior training or experience in the CMV industry, Class B CDL holders do not require the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency proposes the following change: Class B CDL holders upgrading to a Class A CDL would not be required to complete eight instructional units currently included in Section A.1.5, ''Non-Driving Activities,'' of the Theory Instruction portion of the Class A CDL Training Curriculum as set forth in Appendix A to 49 CFR part 380. The theory instructional units that, under this proposal, would no longer be required for Class B CDL holders upgrading to a Class A CDL are: Handling and Documenting Cargo, Environmental Compliance Issues, Post-Crash Procedures, External Communications, Whistleblower/ Coercion, Trip Planning, Drugs/Alcohol, and Medical Requirements. These units would, however, remain required elements of the theory instruction standard curriculum for any individual obtaining a Class A CDL who does not already hold a Class B CDL. These units, which provide instruction in activities that do not involve actually operating a CMV, are identical, but for minor editorial differences in some of the topic descriptions, to the above-specified instructional units included in Section B.1.5, ''Non-Driving Activities,'' of the Theory Instruction portion of the Class B CDL Curriculum as set forth in Appendix B to 49 CFR part 380.

Driver-trainees affected by this proposal fall into one of two categories: Those who obtain a Class B CDL in accordance with the training requirements set forth in the ELDT final rule (*i.e., after* the compliance date of February 7, 2020) and those who obtain a Class B CDL *before* the compliance date of the final rule and thus are not subject to the Class B CDL ELDT requirements.[4]

The first category, drivers who obtain a Class B CDL by completing ELDT training after February 7, 2020, will have already demonstrated proficiency in the eight non-driving theory topics, identified above, included in the Section B.1.5 of the Class B training curriculum, the content of which is virtually identical to the content of section A.1.5. Consequently, the Agency believes that requiring Class B CDL holders who are upgrading to Class A to be re-trained in those topics, which they have already mastered by successfully completing the Class B Theory Instruction, imposes an unnecessary

[1] The ELDT rule was initially effective on February 6, 2017. In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' the effective date was temporarily delayed three times by final rules published on February 1, 2017 (82 FR 8903), March 21, 2017 (82 FR 14476), and May 23, 2017 (82 FR 23516).

[2] For a more extensive review of the legal and regulatory history of these efforts, see 81 FR 88732, 88739–40 (December 8, 2016).

[3] *See* Exec. Order No. 13777, § 1, 82 FR 12285 (March 1, 2017) (''It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people''); Exec. Order No. 13610, 77 FR 28469 (May 14, 2012) (requiring agencies to conduct retrospective analyses of existing rules to determine whether they remain justified); Exec. Order No. 13563, § 6(b), 76 FR 2831, (Jan. 21, 2011) (requiring agencies to submit a plan ''under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives''); Exec. Order No. 12866, § 5, (Sept. 30, 1993) (requiring each agency to ''review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order'').

[4] As discussed subsequently the latter category would also include drivers who obtain a Class B CLP before the compliance date of the ELDT final rule and obtain the Class B CDL after the compliance date, but before the CLP or renewed CLP expires. *See* 49 CFR 380.603(c)(1).

regulatory burden on those individuals. In the preamble to the ELDT final rule, FMCSA acknowledged that there is overlapping content in the Class A and Class B curricula. However, the Agency, while recognizing the value of some repetition to enforce key learning concepts, noted that certain instructional units, while topically the same, would be taught differently to reflect the different operating characteristics of the two underlying vehicle groups, combination vehicles (Group A, as defined in § 383.91(a)(1)) and heavy straight vehicles (Group B, as defined in § 383.91(a)(2)).[5] Upon reconsideration, the Agency concludes that, because instruction in the ''non-driving'' theory topics identified above would not vary based on the underlying vehicle group, additional training in those topics is unnecessary.

On the other hand, FMCSA believes that instruction in two ''non-driving'' theory topics—Hours of Service (HOS) Requirements and Fatigue and Wellness Awareness—will vary, to some extent, depending on the vehicle group. Class B CDL holders driving straight trucks may be more likely to drive CMVs for shorter distances, thereby spending less time at the driving controls, than drivers operating combination vehicles for which a Class A CDL is required. For example, drivers engaged in short-haul operations, as defined in 49 CFR 395.1(e)(1), are permitted to record their hours-of-service using timecards in lieu of electronic logging devices or paper records of duty status, and thus may not use and retain HOS-related instruction they obtained when completing the Class B theory curriculum. Therefore, in light of the safety importance of compliance with HOS requirements, the Agency believes that Class B CDL holders upgrading to a Class A CDL will benefit from additional training in this essential theory topic.

It is also true that some Class B CDL holders operating straight trucks for comparatively shorter distances than Class A CDL holders operating combination vehicles may not be as prone to fatigue and wellness concerns associated with long-haul driving. For example, the extensive time away from home experienced by many long-haul drivers may impact their ability to sleep well, exercise regularly, and eat healthy meals. In terms of alertness and fatigue management, the uninterrupted stretches of driving time experienced by some drivers of combination vehicles will likely present new challenges to some Class B CDL holders. Accordingly, the Agency believes that Class B CDL holders upgrading to Class A CDL would benefit from fatigue and wellness training focused specifically on the operation of Group A vehicles.

FMCSA also believes that instruction will vary, depending on the underlying vehicle group, for the theory topics identified in Sections A.1.1 and B.1.1 (Basic Operation), A.1.2 and B.1.2 (Safe Operating Procedures), A.1.3 and B.1.3 (Advanced Operating Practices) and A.1.4 and B.1.4 (Vehicle Systems and Reporting Malfunctions)—all of which address, to varying degrees, operational characteristics of the two vehicle groups. FMCSA therefore proposes to retain those theory topics in the Theory Instruction Upgrade Curriculum.

The second category of driver-trainees affected by this proposal are drivers who obtained their Class B CDL prior to the February 7, 2020, compliance date of the final rule (or who obtained a Class B CLP prior to the compliance date and obtained the Class B CDL after the compliance date, but before the CLP or renewed CLP expired in accordance with § 380.603(c)(1)). FMCSA presumes that these Class B holders seeking to upgrade to a Class A CDL would already have varying levels of CMV driving experience and pre-CDL training, and thus knowledge of the commercial motor carrier industry.[6] [7] Accordingly, FMCSA does not consider Class B CDL holders in this category to be novice CMV drivers. Additionally, many of these drivers would have received some degree of post-CDL ''finishing'' training provided by their employers. The Agency thus believes it is appropriate to permit Class B CDL holders who already possess some CMV training or experience to more efficiently obtain theory training by focusing specifically on the safe operation of combination vehicles requiring a Class A CDL.

Further, drivers who obtain a Class B CDL prior to the compliance date of the ELDT final rule, but after July 20, 2003, will have received employer-provided training in driver qualification requirements, hours of service, driver wellness, and whistleblower protection in accordance with § 380.503.[8] In addition, drivers who obtain a Class B CDL before the compliance date of the ELDT final rule will have received detailed information from employers concerning the drug and alcohol testing regulations in 49 CFR parts 40 and part 382, as required by § 382.601. As explained above, FMCSA believes it is appropriate for Class B CDL holders upgrading to a Class A CDL to obtain additional theory training in HOS requirements and driver wellness. However, because the remaining three topics (*i.e.,* driver qualifications, whistleblower protection, and drug and alcohol testing) in which Class B holders already received employer-provided training, are included in the ''non-driving'' portion of the Class A theory curricula, it is unnecessary to require those Class B CDL holders to be retrained in those topics when upgrading to a Class A CDL. The theory instruction upgrade curriculum proposed in today's rule would therefore be available for all Class B CDL holders seeking to upgrade to a Class A CDL (*i.e.,* drivers who obtained the Class B CDL before *or* after the compliance date of the ELDT final rule). Under the proposed curriculum, these Class B CDL holders would be required to demonstrate proficiency, in accordance with § 380.715(a), in the Class A theory instruction units included in Sections A.1.1, A.1.2, A.1.3, A.1.4 and units A.1.5.3 and A.1.5.4 as set forth in Appendix A to 49 CFR part 380. The Agency notes that the proposed upgrade curriculum is optional in the sense that Class B holders who wish to receive instruction in the ''full'' Class A Theory Instruction curriculum would be free to do so.

FMCSA reiterates that the Class A BTW range and public road curriculum remains unchanged for all driver-trainees, including those who hold a Class B CDL. In the preamble to the final rule, FMCSA thoroughly explained the basis for the Agency's adoption of a performance-based standard for BTW range and public road training curricula for Class A and Class B CDLs, in lieu of a required minimum number of BTW hours, as proposed. FMCSA noted its intent to evaluate data that will be submitted to the Training Provider Registry, which will assist FMCSA in assessing, over time, whether minimum BTW hours for entry-drivers correlate to safer driving outcomes. Shortly after publication of the final rule, several

[5] 81 FR 88732, 88761 (Dec. 8, 2016).

[6] U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). ''Regulatory Evaluation of Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators. Final Rule. Regulatory Impact Analysis. Final Regulatory Flexibility Analysis. Unfunded Mandates Analysis.'' (ELDT Final Rule Regulatory Evaluation). November 2016. Docket ID FMCSA–2007–27748. Page 8, Table 18 page 59. Available at: *https://www.regulations.gov/document?D=FMCSA-2007-27748-1291* (accessed October 27, 2017).

[7] In the ELDT Final Rule Regulatory Evaluation, FMCSA estimated that 85% of CMV drivers receive pre-CDL training that, at a minimum, would meet the requirements of the ELDT final rule.

[8] The current training requirements identified subpart E of part 380 will be removed and replaced by new subparts F and G on the compliance date of the ELDT final rule. *See* 81 FR 88732, 88783.

stakeholders submitted a petition for reconsideration of the performance-based approach to BTW training, urging the Agency to instead adopt the required minimum BTW hours approach as set forth in the NPRM. FMCSA denied the petition for reasons explained in our responses.[9] In the Agency's judgment, it is premature to revisit the issue of BTW training requirements until the post-rule quantitative data can be evaluated.

The Agency believes that this modest change in the Class A theory training requirements for Class B CDL holders upgrading to a Class A CDL would maintain the same level of safety established in the ELDT final rule. FMCSA invites comments on this issue and welcomes the submission of qualitative or quantitative data addressing the safety impacts of this NPRM. The Agency also requests comment on whether additional Class A theory instructional units should be removed from the proposed upgrade theory curriculum applicable to Class B CDL holders.

The purpose of this proposal is to address the narrow issue of theory training requirements for Class B CDL holders wishing to upgrade to a Class A CDL. Accordingly, FMCSA will not respond to comments on broader aspects of the ELDT final rule. This proposed change, if adopted, would have no impact on driver-trainees other than Class B CDL holders upgrading to a Class A CDL; it imposes virtually no new requirements on State Driver Licensing Agencies (SDLAs), the Federal government, or training providers eligible for listing on the Training Provider Registry (TPR).[10]

Finally, the Agency notes that this proposal sets forth *minimum* theory training requirements applicable to Class B CDL holders upgrading to a Class A CDL. Should any training provider listed on the TPR wish to impose more extensive theory training requirements for Class B CDL holders to whom they provide Class A theory training, nothing in this NPRM would preclude them from doing so. Additionally, States remain free to impose theory training requirements more stringent than those proposed in this NPRM, just as they remain free to impose ELDT requirements more stringent than those set forth in the ELDT final rule.

VII. Section-by-Section Analysis

In § 380.707(a), FMCSA proposes to add ''or Class A theory instruction upgrade curriculum applicants'' to the last sentence in the paragraph to account for the fact that training providers must verify that Class A CDL theory instruction upgrade curriculum training applicants possess a valid Class B CDL.

In Appendix A to part 380, Class A CDL Training Curriculum, FMCSA proposes to add a sentence to the introductory text that states, ''Class A CDL applicants who possess a valid Class B CDL may complete the Theory Instruction Upgrade Curriculum in lieu of the Theory Instruction Standard Curriculum.'' Additionally, the Agency proposes to rename the Class A ''Theory Instruction'' as ''Theory Instruction Standard Curriculum.'' Finally, the Agency proposes to add a new section, ''Theory Instruction Upgrade Curriculum.''

VIII. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA performed an analysis of the impacts of the proposed rule and determined it is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and Regulatory Review. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034 (Feb. 26, 1979)).

As discussed earlier, because Class B CDL holders have previous training or experience in the CMV industry, the proposed rule would establish a new theory instruction upgrade curriculum that removes eight instructional units involving ''Non-Driving Activities'' for Class B CDL holders upgrading to a Class A CDL. The proposed rule does not change the BTW training requirements set forth in the ELDT final rule. Consistent with the ELDT final rule, the proposed theory instruction curriculum for Class B CDL holders upgrading to a Class A CDL would not have a required minimum number of instruction hours, but the training provider must cover all topics in the curriculum, and driver-trainees must receive an overall minimum score of 80 percent on the written theory assessment. FMCSA estimates that this new curriculum would result in cost savings by taking less time to complete, without impacting the benefits of the ELDT final rule.

The Agency estimates that an annual average of approximately 11,340 driver-trainees would be affected by the proposed rule, with each experiencing a reduction of 27 hours to complete the theory instruction. This results in a substantial cost savings to these driver-trainees, as well as a cost savings to the motor carriers that ultimately employ these drivers. The proposed rule does not result in any *increase* in costs. As presented in Table 3, the Agency estimates that the proposed rule would result in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% or a 3% discount rate. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

Scope and Key Inputs to the Analysis

The proposed rule revises regulations established in the ELDT final rule and, therefore, the ELDT final rule serves as the baseline against which the effects of the proposed rule are evaluated. The compliance date of the regulations established by the ELDT final rule remains February 7, 2020; therefore, the same analysis period of 2020 to 2029, used in evaluating the effects of the ELDT final rule, is used in evaluating the effects of this proposed rule. Furthermore, to ensure that meaningful relative comparisons can be made between the results of the regulatory analysis for this proposed rule and the baseline represented by the ELDT final rule, all monetary values are expressed in 2014 dollars, the same base year used to express monetary values in the evaluation of the ELDT final rule.

Many of the key inputs to this analysis are based on the same data sources as those developed and used in the evaluation of the ELDT final rule. Therefore, a copy of the regulatory evaluation for the ELDT final rule is available in the docket for the proposed rule,[11] and, where applicable, the

[9] *https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=postedDate&po=0&dct=N%2BFR%2BPR%2BO&D=FMCSA-2007-27748.*

[10] In accordance with § 380.707(a), training providers listed on the TPR would be required to verify that a driver-trainee wishing to take the theory instruction upgrade curriculum holds a valid Class B CDL.

[11] U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). ''Regulatory Evaluation of Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators. Final Rule. Regulatory Impact Analysis. Final Regulatory Flexibility

Continued

Agency cites that document in the analysis below.

Number of Driver-Trainees Affected by the Proposed Rule

The Agency estimates that an annual average of 11,340 driver-trainees would be affected by the proposed rule, totaling approximately 113,000 driver-trainees affected over the 10-year analysis period. Annual estimates of the number of driver-trainees affected by the proposed rule are presented below in Table 2.

TABLE 2—ESTIMATED NUMBER OF DRIVER-TRAINEES AFFECTED BY THE PROPOSED RULE

Year	Driver-trainees affected by the proposed rule
2020	11,069
2021	11,129
2022	11,188
2023	11,248
2024	11,309
2025	11,369
2026	11,430
2027	11,491
2028	11,553
2029	11,615
Total	113,403

The estimated number of driver-trainees affected by the proposed rule is a key input in determining the potential cost savings to driver-trainees and to the motor carriers that ultimately employ these drivers.

To derive the estimates presented above in Table 2, FMCSA first estimated the total annual number of Class B CDL holders upgrading to a Class A CDL. These estimates are based on a June 2015 information collection, performed as part of the regulatory evaluation for the ELDT final rule, requesting data from the 51 SDLAs, including information regarding the number of upgrades of Class B CDLs to Class A CDLs issued in 2014.[12] Seventeen SDLAs responded to this data collection, 13 of which provided data regarding the number of upgrades. For these 13 SDLAs, a total of 13,937 upgrades from Class B CDLs to Class A CDLs were issued in 2014. Accounting for the difference in the number of licensed drivers across states, FMCSA extrapolated this value to a national total that is representative of all 51 SDLAs. This adjustment results in a national estimate of 67,000 upgrades from Class B CDLs to Class A CDLs issued in 2014. Further details regarding the June 2015 information collection and the methods used to develop the national estimate of 67,000 upgrades from Class B CDLs to Class A CDLs issued in 2014 can be found in the regulatory evaluation for the ELDT final rule.[13]

This 2014 baseline value of 67,000 upgrades from Class B CDLs to Class A CDLs was then used to develop projections of the number of Class B CDL to Class A CDL upgrades issued annually for the 2020 to 2029 analysis period. These future projections were developed by increasing the current baseline 2014 value consistent with occupation-specific employment growth projections for several commercial vehicle related occupations obtained from the Bureau of Labor Statistics (BLS) Employment Projections program.[14] FMCSA projected that the annual number of Class B CDL to Class A CDL upgrades for the 2020 to 2029 analysis period would range between 69,000 and 73,000. These projections and further details regarding their development can be found in the regulatory evaluation for the ELDT final rule.[15]

Finally, the resulting annual projections of the overall number of upgrades from Class B CDLs to Class A CDLs are then adjusted to account for the portion of these drivers that are not affected by the ELDT final rule because these drivers are already receiving training in the absence of that rule. These drivers would not be affected by the proposed rule. In the regulatory evaluation for the ELDT final rule, FMCSA estimated that 84% of driver-trainees obtaining a Class A CDL already receive training in the absence of that rule and therefore are not affected by the ELDT final rule.[16] The remaining portion (16%) of driver-trainees are those affected by the ELDT final rule, and therefore, by the proposed rule. The annual projections of the overall number of upgrades from Class B CDLs to Class A CDLs developed earlier are adjusted accordingly, using this 16% value to estimate the number of Class B CDL holders upgrading to a Class A CDL who are affected by the proposed rule. This results in the estimated number of driver-trainees affected annually by the proposed rule, as presented earlier in Table 2. FMCSA invites comments on these estimates, and welcomes the submission of qualitative or quantitative data addressing the number of driver-trainees affected annually by the proposed rule.

Estimated Hours To Complete the Proposed Theory Instruction Upgrade Curriculum

The estimated number of hours necessary to complete the proposed theory instruction upgrade curriculum, and the resulting time savings compared to the estimated time necessary to complete the Class A theory instruction curriculum that was set forth in the ELDT final rule, provide key inputs in determining the potential cost savings to driver-trainees and to the motor carriers that ultimately employ these drivers. Under both the ELDT final rule and this proposed rule, there is no minimum number of hours that driver-trainees are required to spend on the theory portions of any of the training curricula. The training provider must, however, cover all topics in the theory instruction curriculum, and driver-trainees must receive an overall minimum score of at least 80 percent on the written theory assessment. The Agency estimated that, on average, driver-trainees would need 60 hours to complete the Class A theory instruction curriculum set forth in the ELDT final rule,[17] which, in this proposed rule, is renamed the ''Theory Instruction Standard Curriculum.'' For this proposed rule, the Agency estimates that Class B CDL holders upgrading to a Class A CDL would on average need 33 hours to complete the proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates the proposed rule would result in a time savings of 27 hours for each Class B CDL holder upgrading to a Class A CDL.

The Class A theory instruction curriculum set forth in the ELDT final rule included 30 instructional units,

Analysis. Unfunded Mandates Analysis.'' November 2016. Docket ID FMCSA–YEAR–2007–27748. Available at: *https://www.regulations.gov/document?D=FMCSA-2007-27748-1291* (accessed December 22, 2017).

[12] U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). ''Report by State Driver Licensing Agencies (SDLAs) on the Annual Number of Entry-Level Commercial Driver's License (CDL) Applicants and Related Data.'' OMB Control No: 2126–0059.

[13] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 19–20, 26.

[14] U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). Employment Projections Program. ''Table 1.2: Employment by detailed occupation, 2014 and projected 2024.'' Available at: *http://www.bls.gov/emp/ind-occ-matrix/occupation.xlsx* (accessed July 29, 2016).

[15] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation.'' Annual projections for 2020 to 2029 for ''Upgrade of Class B CDL to Class A CDL'' are presented in Table 11 on page 18, and discussed on pp. 27–30.

[16] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 52–62.

[17] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 70–74.

including 10 instructional units related to non-driving activities. The proposed theory instruction upgrade curriculum removes eight of these instructional units related to non-driving activities. In the regulatory evaluation for the ELDT final rule, the Agency did not develop separate estimates of the time necessary to complete each of the 30 instructional units comprising the Class A theory instruction curriculum. Accordingly, FMCSA cannot make a direct estimate of the time savings resulting from the proposed elimination of eight instructional units related to non-driving activities. Although the number of instructional units is reduced by 27% (with eight out of 30 instructional units removed), the varying subject matter and content of each of the 30 instructional units means that the number of hours required to complete the training would not necessarily be reduced by a proportional 27% (*i.e.,* a 16-hour reduction from the 60-hour estimate for the theory instruction standard curriculum discussed above).

Therefore, in order to develop an estimate of the number of hours necessary to complete the proposed theory instruction upgrade curriculum and the resulting time savings compared to the estimated time necessary to complete the Class A theory instruction curriculum in the ELDT final rule, the Agency examined the theory instructional units of the curricula standards for driver-trainees as established by the Professional Truck Driver Institute (PTDI).[18] These PTDI curricula standards were reviewed previously during the development of the ELDT final rule. The theory instructional units of the PTDI curricula standards align closely with the 30 instructional units of the Class A theory instruction curriculum in the ELDT final rule. Furthermore, the PTDI curricula standards specify a minimum number of hours for six major categories into which each of the individual instructional units is assigned. These PTDI estimates help to provide a relative measure of the amount of time necessary to complete each of the individual instructional units in the proposed rule. Based on the minimum number of hours of training required under the PTDI standards for each of the individual theory instructional units, the elimination of the eight instructional units related to non-driving activities reduces the total hours of Class A theory instruction by approximately 44.2%. Applying this 44.2% reduction to the estimated 60 hours needed to complete the Class A theory instruction curriculum in the ELDT final rule results in a 27-hour reduction in the time needed for Class B CDL holders upgrading to a Class A CDL to complete theory training by taking the proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates that Class B CDL holders upgrading to a Class A CDL would, on average, now only require 33 hours to complete the proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates the proposed rule would result in a time savings of 27 hours for each Class B CDL holder upgrading to a Class A CDL. FMCSA invites comments on these estimates, and welcomes the submission of qualitative or quantitative data addressing the estimated number of hours necessary to complete the proposed theory instruction upgrade curriculum.

Other Inputs to the Analysis

The reduction of 27 hours in theory training for each of the driver-trainees affected by the proposed rule results in a change in the costs incurred by these driver-trainees, relative to the baseline of the ELDT final rule. This change in cost is comprised of two components, a reduction in tuition costs incurred by these driver-trainees, and a reduction in the opportunity cost of time for these driver-trainees.

FMCSA evaluated tuition costs using an average hourly cost of training of $26 per hour, based on a review of nearly nine hundred CDL driver training programs as discussed in the regulatory evaluation for the ELDT final rule.[19]

The Agency evaluated changes in the opportunity cost of time for driver-trainees using the driver wage rate to represent the value of driver-trainee time that, in the absence of the proposed rule, would have been spent in training but now would be available to driver-trainees for other uses, such as productive employment. FMCSA uses a driver wage rate of $30 per hour, representing the median hourly base wage rate for truck drivers plus fringe benefits, as discussed in the regulatory evaluation of the ELDT final rule.[20]

Finally, the reduction of 27 hours in theory training for each of the driver-trainees affected by the proposed rule would also reduce the opportunity costs incurred by motor carriers that ultimately employ these driver-trainees. The opportunity cost to motor carriers from a regulatory action represents the value of the best alternative to the firm that must be forgone by, or is now made available to, the firm as a result of that regulatory action.[21] Under the proposed rule, an input of production (driver labor) that was previously unavailable to carriers in the absence of the proposed rule would now be available to carriers, for a time equivalent to the 27-hour reduction in theory training for each of the affected driver-trainees. The value of this time to the motor carrier is measured by estimating the change in profit to the firm, and is a function of the estimated 27-hour reduction in theory training for each of the affected driver-trainees, the marginal cost of operating a CMV, and an estimate of a typical average motor carrier profit margin. As discussed in the regulatory evaluation for the ELDT final rule, the Agency estimates that the marginal cost of operating a CMV is $68 per hour, and that the average profit margin for motor carriers is 5%.[22]

Costs

The proposed rule would not result in any increase in costs. In the regulatory evaluation for the ELDT final rule, the Agency estimated that not only would driver-trainees and motor carriers incur costs, but that training providers, SDLAs, and the Federal government would also incur costs as a result of the ELDT final rule. For this proposed rule, the Agency does not anticipate any change in costs relative to the ELDT final rule for training providers, SDLAs, or the Federal government because it does not affect the regulatory obligations of these entities as set forth in the ELDT final rule.

Costs to training providers resulting from the ELDT final rule included costs for submitting a Training Provider Registration Form (TPRF) for each training location to the Training Provider Registry (TPR), costs for electronically submitting training certification information to the TPR for driver-trainees who have completed training, and costs for preparing for and being subject to compliance audits.[23] Under the proposed rule, training providers would still need to register with the TPR, and for those driver-trainees affected by the proposed rule,

[18] Professional Truck Driver Institute, Inc. (PTDI). ''Curricula Standards and Guidelines for Entry-Level Commercial Motor Vehicle Driver Courses.'' February 15, 2017. Page 16. Available at: *http://www.ptdi.org/resources/Documents/Standards/CURRICULUM%20STANDARDS%20ENTRY%20LEVEL%20021517.pdf* (accessed October 2, 2017).

[19] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 68–69.

[20] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp.11–14.

[21] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 76–79.

[22] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 76–79.

[23] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 79–81.

training providers would still need to transmit training completion information electronically to the TPR. Accordingly, FMCSA does not anticipate any change in costs to training providers resulting from the proposed rule.

Costs to SDLAs resulting from the ELDT final rule included costs for updates to SDLA information technology (IT) systems to be able to receive driver training completion information from CDLIS and store this information in the driver history record. Under the proposed rule, SDLAs would continue to receive and store the same information. Therefore, FMCSA does not anticipate any change in costs to SDLAs resulting from the proposed rule.

Finally, costs to the Federal government resulting from the ELDT final rule included costs for FMCSA to create and manage the TPR and to enforce the regulations established by the final rule. Under the proposed rule, the TPR must be developed and maintained in the same manner as under the ELDT final rule. In addition, training program enforcement activities, such as compliance audits performed on training providers, would remain unchanged under the proposed rule as compared to the ELDT final rule, and FMCSA's review of training provider registration forms would also remain unchanged. Accordingly, FMCSA does not anticipate any change in costs to the Federal government resulting from the proposed rule.

As discussed above, FMCSA estimates a reduction in costs incurred by driver-trainees and motor carriers affected by the proposed rule. Because there is an estimated reduction of 27 hours of training for each driver-trainee affected by the proposed rule, the Agency estimates that both driver-trainees and motor carriers would experience negative costs, that is, a decrease in costs or a cost savings. The proposed rule would not result in any *increase* in costs for driver-trainees or motor carriers. The proposed rule reduces tuition costs, as well as the opportunity cost of time for these driver-trainees, relative to the baseline of the ELDT final rule.

For each year of the 10-year analysis period, FMCSA multiplied the estimated number of driver-trainees annually that would be affected by the proposed rule, as presented in Table 2, by the estimated reduction of 27 hours in theory training for each of these driver-trainees. FMCSA then multiplied the resulting total aggregate reduction in theory training hours by $26 per hour (the estimated average hourly cost of training),[24] yielding an estimate of the overall change in tuition costs experienced by driver-trainees for each year of the analysis period. Additionally, the Agency multiplied the total aggregate reduction in theory training hours by the estimated driver wage rate of $30 per hour, yielding an estimate of the change in the opportunity cost of time experienced by driver-trainees for each year of the analysis period. As presented in Table 3, the Agency estimates that the proposed rule would result in a 10-year tuition cost savings to driver-trainees of $80 million on an undiscounted basis. The Agency estimates that the proposed rule would also result in a 10-year opportunity cost of time savings to driver-trainees of $92 million on an undiscounted basis. In total, the Agency estimates that the proposed rule would result in a 10-year cost savings to driver-trainees of $171 million on an undiscounted basis, and $17.10 million on an annualized basis at a 7% discount rate.

The development of the key inputs necessary to estimate the change in cost to motor-carriers, described earlier, includes the marginal cost of operating a CMV, an estimate of a typical average motor carrier profit margin, and the estimated 27-hour reduction in theory training for each of the driver-trainees affected by the proposed rule. For each year of the 10-year analysis period, the estimated number of driver-trainees who would be affected by the proposed rule as presented earlier in Table 2 is multiplied by the estimated reduction of 27 hours in theory training for each of these driver-trainees. The resulting total reduction in theory training hours is then multiplied by the estimated marginal cost of operating a CMV of $68 per hour, and the estimated profit margin of 5% for motor carriers. As presented in Table 3, the Agency estimates that the proposed rule would result in a 10-year opportunity cost savings to motor carriers of $10 million on an undiscounted basis, and $1.04 million on an annualized basis at a 7% discount rate, representing a decrease in opportunity cost, or an opportunity cost savings to motor carriers.

As presented in Table 3, the Agency estimates that the proposed rule would result in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% discount rate, representing a decrease in cost or a cost savings. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

[24] The tuition costs noted above are derived from observed tuition charged for the CDL training programs identified by FMCSA, and are proxies for tuition costs that might be charged for a curriculum that meets the requirements of the rule. More details can be found in section 3.2.1 of the regulatory evaluation for the ELDT Final Rule. DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 68–69.

TABLE 3—TOTAL COST OF THE PROPOSED RULE

[In millions of 2014$]

Year	Driver-trainees affected by the proposed rule	Undiscounted				Discounted	
		Driver-trainee tuition costs	Driver-trainee opportunity costs	Motor carrier opportunity costs	Total costs [a]	Discounted at 3%	Discounted at 7%
	[A]	[B] = [A] × [−27 hours] × [$26 per hour]	[C] = [A] × [−27 hours] × [$30 per hour]	[D] = [A] × [−27 hours] × [$68 per hour] × [0.05]	[E] = [B] + [C] + [D]		
2020	11,069	[b] ($7.8)	($9.0)	($1.0)	($17.8)	($17.2)	($16.6)
2021	11,129	(7.8)	(9.0)	(1.0)	(17.8)	(16.8)	(15.6)
2022	11,188	(7.9)	(9.1)	(1.0)	(17.9)	(16.4)	(14.6)
2023	11,248	(7.9)	(9.1)	(1.0)	(18.0)	(16.0)	(13.8)
2024	11,309	(7.9)	(9.2)	(1.0)	(18.1)	(15.6)	(12.9)
2025	11,369	(8.0)	(9.2)	(1.0)	(18.2)	(15.3)	(12.2)
2026	11,430	(8.0)	(9.3)	(1.0)	(18.3)	(14.9)	(11.4)
2027	11,491	(8.1)	(9.3)	(1.1)	(18.4)	(14.5)	(10.7)
2028	11,553	(8.1)	(9.4)	(1.1)	(18.5)	(14.2)	(10.1)
2029	11,615	(8.2)	(9.4)	(1.1)	(18.6)	(13.9)	(9.5)
Total	113,403	(80)	(92)	(10)	(182)	(155)	(127)
Annualized					(18)	(18)	(18)

Notes:

[a] Total cost values may not equal the sum of the components due to rounding (the totals shown in this column are the rounded sum of unrounded components).

[b] Values shown in parentheses are negative values (*i.e.,* less than zero), and represent a decrease in cost or a cost savings.

Benefits

The Agency anticipates no change in the benefits of the ELDT final rule as a result of the proposed rule. In the regulatory evaluation for the ELDT final rule, the Agency estimated quantified benefits for three categories of non-safety benefits, including savings from reductions in fuel consumption, reductions in CO_2 emissions related to these reductions in fuel consumption, and reductions in vehicle maintenance and repair costs. These estimated non-safety benefits were derived from the Speed Management and Space Management instructional units in the Class A theory instruction curriculum set forth in the ELDT final rule.[25] Because these two instructional units remain in the proposed theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from the proposed rule.

The regulatory evaluation for the ELDT final rule addressed the potential safety benefits of entry-level driver training. In considering the potential impacts on safety from today's proposed rule, the Agency notes that Class B holders have previous training or experience in the CMV industry, which serves as an adequate substitute for the eight non-driving instructional units that are not included in the proposed theory instruction upgrade curriculum. Therefore, the Agency anticipates that there would be no change in potential safety benefits associated with the proposed rule.

FMCSA invites comments and the submission of qualitative or quantitative data addressing the potential impacts to both non-safety benefits and safety benefits from the proposed rule.

B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)

This proposed rule is expected to be an E.O. 13771 deregulatory action.[26] The present value of the cost savings of this rule, measured on an infinite time horizon at a 7 percent discount rate, is approximately $212 million. Expressed on an annualized basis, the cost savings are $15 million. These values are expressed in 2016 dollars.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies to consider the impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term ''small entities'' means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000.[27] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these entities. Section 605 of the RFA allows an Agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This rule would affect a subset of driver-trainees and motor carriers. Driver-trainees are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, driver-trainees are considered neither a small business under Section 601(3) of the RFA, nor are they considered a small organization under Section 601(4) of the RFA.

[25] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 87–122.

[26] Executive Office of the President. *Executive Order 13771 of January 30, 2017. Reducing Regulation and Controlling Regulatory Costs.* 82 FR 9339–9341. Feb. 3, 2017.

[27] Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164 (codified at 5 U.S.C. 601, *et seq.*).

Motor carriers affected by this rulemaking would most likely be those that hire Class A CDL drivers. Passenger motor carriers generally rely on Group B CMVs that do not require a Class A CDL to operate, and thus would not be affected by this rule. In the regulatory evaluation for the ELDT final rule, FMCSA estimated that there were approximately 1.1 million inter- and intrastate freight motor carriers, of which a subset operate Group A vehicles, and thus would be affected by this rule. FMCSA estimates that this proposed rule would affect between 11,000 and 12,000 CMV driver-trainees per year, resulting in fewer than 12,000 motor carriers affected per year, which is approximately 0.9% of the total number of inter- and intrastate freight motor carriers. FMCSA does not know how many of these motor carriers would be considered ''small.''

The U.S. Small Business Administration (SBA) defines the size standards used to classify entities as small. SBA establishes separate standards for each industry, as defined by the North American Industry Classification System (NAICS).[28] This rule could affect many different industry sectors; for example, the transportation sector (*e.g.,* General freight trucking industry group (4841) and the Specialized freight trucking industry group (4842)), the agricultural sector, and the construction sector. Industry groups within these sectors have size standards based on the number of employees (*e.g.,* 500 employees), or on the amount of annual revenue (*e.g.,* $27.5 million in revenue). FMCSA does not have specific information about the number of employees or revenue for each of the motor carriers. However, FMCSA is aware that much of the motor carrier industry largely consists of smaller firms. Of the 1.1 million freight motor carriers, roughly 1 million have between 1 and 6 power units. If all of the 1 million freight motor carriers with 6 or fewer power units are considered small based on the applicable size standard, then a maximum of 1.2% (12,000 ÷ 1 million) of small entities would be affected by this rule. Therefore, FMCSA estimates that this rule would not impact a substantial number of small entities. FMCSA invites comment on the number of small entities that would be affected by this rule.

As discussed earlier in the Regulatory Analyses section, FMCSA estimates the impact to the affected motor carriers as a reduction in opportunity cost, or a cost savings, relative to the baseline of the ELDT final rule. This rule would remove some of the training requirements accounted for in the regulatory evaluation for the ELDT final rule, allowing those drivers who are upgrading from a Class B CDL to a Class A CDL to begin working and earning a profit for the motor carrier earlier than under the current training procedures. Therefore, this rule would provide affected motor carriers with increased access to labor hours, and consequently profit, resulting in an opportunity cost savings to the motor carrier. FMCSA estimated the opportunity cost to the motor carrier as a function of the number of hours previously spent in training that are now available for labor, an estimate of the profit margin, and the marginal hourly operational costs of the CMV. As discussed earlier in the Regulatory Analyses section, the Agency estimates that the proposed rule would result in a cost savings to all motor carriers of $1.04 million on an annualized basis at a 7% discount rate. On a per driver basis for those drivers affected by the proposed rule, the cost savings realized by the motor carriers would be approximately $92 (27 hours × 0.05 profit margin × $68 marginal operating costs).

The RFA does not define a threshold for determining whether a specific regulation would result in a significant impact. However, the SBA, in guidance to government agencies, provides some objective measures of significance that the agencies can consider using.[29] One measure that could be used to illustrate a significant impact is labor costs, specifically, if the cost of the proposed regulation exceeds 5% of the labor costs of the entities in the sector. The American Transportation Research Institute (ATRI) performed an annual survey of motor carriers and published its findings in the ''Analysis of the Operational Costs of Trucking: 2017 Update.'' ATRI found that driver wages and benefits represent approximately 33% of average marginal costs to a carrier.[30] ATRI further estimated that average marginal hourly driver costs, including wages and benefits, were $27.09 in 2016. FMCSA hours of service regulations allow drivers 60 hours of on-duty time in a 7-day period. This equates to approximately $84,500 in driver labor costs per year ($27.09 × 60 hours per week × 52 weeks). The impact of this regulation would be approximately 0.11% of labor costs ($92 impact ÷ $84,500 labor costs)—well below the 5% threshold identified in the SBA guide. Therefore, this rule would not have a significant impact on the entities affected.

Accordingly, I hereby certify that the action does not have a significant economic impact on a substantial number of small entities. FMCSA requests comments on this certification.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mr. Richard Clemente, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). The DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.[31]

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

[28] Executive Office of the President, Office of Management and Budget (OMB). ''North American Industry Classification System.'' 2017. Available at: *https://www.census.gov/eos/www/naics/2017NAICS/2017_NAICS_Manual.pdf* (accessed December 1, 2017).

[29] U.S. Small Business Administration, Office of Advocacy. ''A Guide for Government Agencies. How to Comply with the Regulatory Flexibility Act.'' 2017. Available at: *https://www.sba.gov/sites/default/files/advocacy/How-to-Comply-with-the-RFA-WEB.pdf* (accessed on May 3, 2018).

[30] American Transportation Research Institute. ''An Analysis of the Operational Costs of Trucking: 2017 Update. Available at: *http://atri-online.org/wp-content/uploads/2017/10/ATRI-Operational-Costs-of-Trucking-2017-10-2017.pdf* (Accessed on: May 3, 2018).

[31] U.S. Department of Transportation (DOT). ''The Rights of Small Entities To Enforcement Fairness and Policy Against Retaliation.'' Available at: *https://www.transportation.gov/sites/dot.gov/files/docs/SBREFAnotice2.pdf* (accessed December 1, 2017).

their discretionary regulatory actions. In particular, the Act requires agencies to prepare a comprehensive written statement for any proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $156 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2015 levels) or more in any one year. Because this proposed rule would not result in such an expenditure, a written statement is not required. However, the Agency does discuss the costs and benefits of this proposed rule elsewhere in this preamble.

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires Agencies to provide estimates of the information-collection (IC) burden of its regulations. This proposed rule does not alter the Agency's estimates of the paperwork burden outlined on page 88788 of the final ELDT rule. Since publication of the ELDT final rule, the OMB, on April 19, 2017, approved the Agency's estimate of 66,250 hours for the IC collection titled ''Training Certification for Entry-Level Commercial Motor Vehicle Drivers'' (2126–0028). The approval expires on April 30, 2020. If this notice generates public comment on Agency PRA estimates, the Agency will respond accordingly.

G. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' In assessing the federalism implications of the ELDT final rule, FMCSA stated that, because the CDL program is voluntary, it does not have preemptive effect on the States. The Agency therefore concluded that the ELDT final rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States.[32] This NPRM does not change that conclusion.

H. E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it would not effect a taking of private property or otherwise have taking implications.

K. Privacy

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a Privacy Impact Assessment (PIA) of a regulation that will affect the privacy of individuals. The assessment considers impacts of the rule on the privacy of information in an identifiable form and related matters. The FMCSA Privacy Officer has evaluated the risks and effects the rulemaking might have on collecting, storing, and sharing personally identifiable information (PII), as well as protections and alternative information handling processes to mitigate potential privacy risks. FMCSA determined that, while this rule does require the collection of individual PII, it does not result in a change in collection, process, or the data elements previously identified in the ELDT final rule.

The privacy analysis of the ELDT final rule, which conforms to the DOT standard Privacy Impact Assessment (PIA), is published on the DOT website (*www.transportation.gov/privacy*). It addresses business processes identified in the ELDT final rule and new or existing information collection systems to be implemented in support of those processes. The FMCSA Privacy Office determined that this NPRM does not alter the privacy impact detailed in the PIA for the ELDT final rule.

The Agency submitted a Privacy Threshold Assessment (PTA) analyzing the new rulemaking and the specific process for collection of personal information to the Department of Transportation's Privacy Office. As required by the Privacy Act, FMCSA and the Department will be publishing, with request for comment, a system of records notice (SORN) addressing the collection of information affected by this NPRM and the ELDT final rule. This SORN will be published in the **Federal Register** not less than 30 days before the Agency is authorized to collect or use PII retrieved by unique identifier.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

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

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13783 (Promoting Energy Independence and Economic Growth)

Executive Order 13783 directs executive departments and agencies to review existing regulations that potentially burden the development or use of domestically produced energy resources, and to appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources.[33] In accordance with E.O. 13783, the DOT prepared and submitted a report to the Director of OMB providing specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency action that burden domestic energy production. The DOT has not identified this proposed rule as potentially alleviating unnecessary burdens on domestic energy production under E.O. 13783.

[32] *See* 81 FR 88732, 88788 (Dec. 8, 2016).

[33] Exec. Order No. 13783, 82 FR 16093 (March 31, 2017).

O. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

P. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

Q. Environment (NEPA, CAA, E.O. 12898 Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1(69 FR 9680, March 1, 2004), Appendix 2, paragraph (6)(z). The Categorical Exclusion (CE) in paragraph (6)(z) covers (1) the minimum qualifications for persons who drive commercial motor vehicles as, for, or on behalf of motor carriers; and (2) the minimum duties of motor carriers with respect to the qualifications of their drivers. The proposed requirements in this rule are covered by this CE and the proposed action does not have the potential to significantly affect the quality of the environment. The CE determination is available for inspection or copying in the regulations.gov website listed under **ADDRESSES**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401, *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O. and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects in 49 CFR Part 380

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter 3, part 380 to read as follows:

PART 380—SPECIAL TRAINING REQUIREMENTS

■ 1. The authority citation for part 380 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31305, 31307, 31308, and 31502; sec. 4007(a) and (b) of Pub. L. 102–240 (105 Stat. 2151–2152); sec. 32304 of Pub. L.112–141; and 49 CFR 1.87.

■ 2. In § 380.707 amend paragraph (a) by adding the words ''or Class A theory instruction upgrade curriculum applicants'' to the final sentence.

■ 3. Amend Appendix A to part 380 by:

■ a. Revising the introductory text;

■ b. Revising the undesignated heading ''Theory Instruction'' to read as ''Theory Instruction Standard Curriculum;'' and

■ c. Adding section Theory Instruction Upgrade Curriculum.

The revision and addition to read as follows:

Appendix A to Part 380—Class A–CDL training curriculum.

Class A CDL applicants must complete the Class A CDL curriculum outlined in this Appendix. The curriculum for Class A applicants pertains to combination vehicles (Group A) as defined in 49 CFR 383.91(a)(1). Class A CDL applicants who possess a valid Class B CDL may complete the Theory Instruction Upgrade Curriculum in lieu of the Theory Instruction Standard Curriculum. There is no required minimum number of instruction hours for theory training, but the training instructor must cover all topics set forth in the curriculum. There is no required minimum number of instruction hours for BTW (range and public road) training, but the training instructor must cover all topics set forth in the BTW curriculum. BTW training must be conducted in a CMV for which a Class A CDL is required. The instructor must determine and document that each driver-trainee has demonstrated proficiency in all elements of the BTW curriculum, unless otherwise noted. Consistent with the definitions of BTW range training and BTW public road training in § 380.605, a simulation device cannot be used to conduct such training or to demonstrate proficiency. Training instructors must document the total number of clock hours each driver-trainee spends to complete the BTW curriculum. The Class A curriculum must, at a minimum, include the following:

Theory Instruction Standard Curriculum

* * * * *

Theory Instruction Upgrade Curriculum

Section BA1.1 Basic Operation

This section must cover the interaction between driver-trainees and the CMV. Driver-trainees will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic CMV instruments and controls. Training providers will teach driver-trainees the basic operating characteristics of a CMV. This section must also teach driver-trainees how to properly perform vehicle inspections, control the motion of CMVs under various road and traffic conditions, employ shifting and backing techniques, and properly couple and uncouple combination vehicles. Driver-trainees must familiarize themselves with the basic operating characteristics of a CMV.

Unit BA1.1.1 Orientation

This unit must introduce driver-trainees to the combination vehicle driver training curriculum and the components of a combination vehicle. The training providers must teach the safety fundamentals, essential regulatory requirements (*e.g.,* overview of FMCSRs and Hazardous Materials Regulations), and driver-trainees' responsibilities not directly related to CMV driving, such as proper cargo securement. This unit must also cover the ramifications, including driver disqualification provisions and fines, for non-compliance with parts 380, 382, 383, and 390 through 399 of the FMCSRs. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV, stopping at weigh stations/scales, hazard awareness of vehicle size and weight limitations, low clearance areas (*e.g.,* CMV height restrictions), and bridge formulas.

Unit BA1.1.2 Control Systems/Dashboard

This unit must introduce driver-trainees to vehicle instruments, controls, and safety components. The training providers must teach driver-trainees to read gauges and instruments correctly and the proper use of vehicle safety components, including safety belts and mirrors. The training providers

must teach driver-trainees to identify, locate, and explain the function of each of the primary and secondary controls including those required for steering, accelerating, shifting, braking systems (*e.g.,* ABS, hydraulic, air), as applicable, and parking.

Unit BA1.1.3 Pre- and Post-Trip Inspections

This unit must teach the driver-trainees to conduct pre-trip and post-trip inspections as specified in §§ 392.7 and 396.11, including appropriate inspection locations. Instruction must also be provided on en route vehicle inspections.

Unit BA1.1.4 Basic Control

This unit must introduce basic vehicular control and handling as it applies to combination vehicles. This unit must include instruction addressing basic combination vehicle controls in areas such as executing sharp left and right turns, centering the vehicle, maneuvering in restricted areas, and entering and exiting the interstate or controlled access highway.

Unit BA1.1.5 Shifting/Operating Transmissions

This unit must introduce shifting patterns and procedures to driver-trainees to prepare them to safely and competently perform basic shifting maneuvers. This unit must include training driver-trainees to execute up and down shifting techniques on multi-speed dual range transmissions, if appropriate. The training providers must teach the importance of increased vehicle control and improved fuel economy achieved by utilizing proper shifting techniques.

Unit BA1.1.6 Backing and Docking

This unit must teach driver-trainees to back and dock the combination vehicle safely. This unit must cover ''Get Out and Look'' (GOAL), evaluation of backing/loading facilities, knowledge of backing set ups, as well as instruction in how to back with the use of spotters.

Unit BA1.1.7 Coupling and Uncoupling

This unit must provide instruction for driver-trainees to develop the skills necessary to conduct the procedures for safe coupling and uncoupling of combination vehicle units, as applicable.

Section BA1.2 Safe Operating Procedures

This section must teach the practices required for safe operation of the combination vehicle on the highway under various road, weather, and traffic conditions. The training providers must teach driver-trainees the Federal rules governing the proper use of seat belt assemblies (§ 392.16).

Unit BA1.2.1 Visual Search

This unit must teach driver-trainees to visually search the road for potential hazards and critical objects, including instruction on recognizing distracted pedestrians or distracted drivers.

Unit BA1.2.2 Communication

This unit must instruct driver-trainees on how to communicate their intentions to other road users. Driver-trainees must be instructed in techniques for different types of communication on the road, including proper use of headlights, turn signals, four-way flashers, and horns. This unit must cover instruction in proper utilization of eye contact techniques with other drivers, bicyclists, and pedestrians.

Unit BA1.2.3 Distracted Driving

This unit must instruct driver-trainees in FMCSRs related to distracted driving and other key driver distraction driving issues, including improper cell phone use, texting, and use of in-cab technology (*e.g.,* §§ 392.80 and 392.82). This instruction will include training in the following aspects: Visual attention (keeping eyes on the road); manual control (keeping hands on the wheel); and cognitive awareness (keeping mind on the task and safe operation of the CMV).

Unit BA1.2.4 Speed Management

This unit must teach driver-trainees how to manage speed effectively in response to various road, weather, and traffic conditions. The instruction must include methods for calibrating safe following distances taking into account CMV braking distances under an array of conditions including traffic, weather, and CMV weight and length.

Unit BA1.2.5 Space Management

This unit must teach driver-trainees about the importance of managing the space surrounding the vehicle under various traffic and road conditions.

Unit BA1.2.6 Night Operation

This unit must instruct driver-trainees in the factors affecting the safe operation of CMVs at night and in darkness. Additionally, driver-trainees must be instructed in changes in vision, communications, speed space management, and proper use of lights, as needed, to deal with the special problems night driving presents.

Unit BA1.2.7 Extreme Driving Conditions

This unit must teach driver-trainees about the specific problems presented by extreme driving conditions. The training provide will emphasize the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. The training provider must teach proper tire chaining procedures.

Section BA1.3. Advanced Operating Practices

This section must introduce higher-level skills that can be acquired only after the more fundamental skills and knowledge taught in the prior two sections have been mastered. The training providers must teach driver-trainees about the advanced skills necessary to recognize potential hazards and must teach the driver-trainees the procedures needed to handle a CMV when faced with a hazard.

Unit BA1.3.1 Hazard Perception

The unit must teach driver-trainees to recognize potential hazards in the driving environment in order to reduce the severity of the hazard and neutralize possible emergency situations. The training providers must teach driver-trainees to identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments. The instruction must emphasize hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations. The training providers must teach driver-trainees to recognize potential dangers and the safety procedures that must be utilized while driving in construction/work zones.

Unit BA1.3.2 Skid Control/Recovery, Jackknifing, and Other Emergencies

This unit must teach the causes of skidding and jackknifing and techniques for avoiding and recovering from them. The training providers must teach the importance of maintaining directional control and bringing the CMV to a stop in the shortest possible distance while operating over a slippery surface. This unit must provide instruction in appropriate responses when faced with CMV emergencies. This instruction must include evasive steering, emergency braking, and off-road recovery, as well as the proper response to brake failures, tire blowouts, hydroplaning, and rollovers. The instruction must include a review of unsafe acts and the role the acts play in producing or worsening hazardous situations.

Unit BA1.3.3 Railroad-Highway Grade Crossings

This unit must teach driver-trainees to recognize potential dangers and the appropriate safety procedures to utilize at railroad (RR)-highway grade crossings. This instruction must include an overview of various Federal/State RR grade crossing regulations, RR grade crossing environments, obstructed view conditions, clearance around the tracks, and rail signs and signals. The training providers must instruct driver-trainees that railroads have personnel available (''Emergency Notification Systems'') to receive notification of any information relating to an unsafe condition at the RR-highway grade crossing or a disabled vehicle or other obstruction blocking a railroad track at the RR-highway grade crossing.

Section BA1.4 Vehicle Systems and Reporting Malfunctions

This section must provide entry-level driver-trainees with sufficient knowledge of the combination vehicle and its systems and subsystems to ensure that they understand and respect their role in vehicle inspection, operation, and maintenance and the impact of those factors upon highway safety and operational efficiency.

Unit BA1.4.1 Identification and Diagnosis of Malfunctions

This unit must teach driver-trainees to identify major combination vehicle systems. The goal is to explain their function and how to check all key vehicle systems, (*e.g.,* engine, engine exhaust auxiliary systems, brakes, drive train, coupling systems, and suspension) to ensure their safe operation. Driver-trainees must be provided with a detailed description of each system, its importance to safe and efficient operation,

and what is needed to keep the system in good operating condition.

Unit BA1.4.2 Roadside Inspections

This unit must instruct driver-trainees on what to expect during a standard roadside inspection conducted by authorized personnel. The training providers must teach driver-trainees on what vehicle and driver violations are classified as out-of-service (OOS), including the ramifications and penalties for operating a CMV when subject to an OOS order as defined in section 390.5.

Unit BA1.4.3 Maintenance

This unit must introduce driver-trainees to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventive maintenance and simple emergency repairs.

Section BA1.5 Non-Driving Activities

This section must teach driver-trainees the activities that do not involve actually operating the CMV.

Unit BA1.5.1 Hours of Service Requirements

This unit must teach driver-trainees to understand that there are different hours-of-service (HOS) requirements applicable to different industries. The training providers must teach driver-trainees all applicable HOS regulatory requirements. The training providers must teach driver-trainees to complete a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate. The training providers must teach driver-trainees the consequences (safety, legal, and personal) of violating the HOS regulations, including the fines and penalties imposed for these types of violations.

Unit BA1.5.2 Fatigue and Wellness Awareness

This unit must teach driver-trainees about the issues and consequences of chronic and acute driver fatigue and the importance of staying alert. The training providers must teach driver-trainees wellness and basic health maintenance information that affect a driver's ability to safely operate a CMV.

Issued under authority delegated in 49 CFR 1.87 on: June 21, 2018.

Raymond P. Martinez,

Administrator.

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Notices

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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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Adoption of Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States adopted three recommendations at its Sixty-Ninth Plenary Session. The appended recommendations address: Paperwork Reduction Act Efficiencies; Severability in Agency Rulemaking (formerly titled Minimizing the Cost of Judicial Review; and Electronic Case Management in Federal Administrative Adjudication. A fourth recommendation on the topic of Administrative Judges was recommitted to the committee of jurisdiction for further consideration. A working group convened by the Office of the Chairman presented the Conference's Model Adjudication Rules (rev. 2018).

FOR FURTHER INFORMATION CONTACT: Gisselle Bourns for Recommendations 2018–1 and 2018–2, and Gavin Young for Recommendation 2018–3. For each Recommendation and general information about other projects referenced in this notice, the address and telephone number are: Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW, Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see *www.acus.gov.* At its Sixty-Ninth Plenary Session, held June 14–15, 2018, the Assembly of the Conference adopted three recommendations.

Recommendation 2018–1, *Paperwork Reduction Act Efficiencies.* This recommendation encourages collaboration between the Office of Information and Regulatory Affairs and federal agencies to maximize opportunities for making the information collection clearance process under the Paperwork Reduction Act more efficient, while still maintaining its integrity. The recommendation also encourages using generic clearances and common forms more frequently, providing more training to agencies, and improving several other aspects of the information-collection clearance process.

Recommendation 2018–2, *Severability in Agency Rulemaking* (formerly titled *Minimizing the Cost of Judicial Review*). This recommendation encourages federal agencies that anticipate litigation over their rules to consider early in the rulemaking process whether a rule is severable—that is, divisible into portions that can and should function independently. It also identifies steps agencies should take if they intend that portions of a rule should continue in effect even though other portions have been held unlawful on judicial review. In addition, it encourages courts reviewing an agency rule to solicit the parties' views on the issue of severability in appropriate circumstances.

Recommendation 2018–3, *Electronic Case Management in Federal Administrative Adjudication.* This recommendation offers guidance for agencies considering whether and how to implement an electronic case management system. It provides factors for agencies to consider in weighing the costs and benefits of an electronic case management system; sets forth measures an agency should take to ensure privacy, transparency, and security; and describes ways an electronic case management system may improve adjudicatory processes.

A proposed recommendation addressing agency practices related to the selection, oversight, evaluation, discipline, and removal of administrative judges who are not administrative law judges was also on the agenda of the Sixty-Ninth Plenary Session; however, the Assembly voted to recommit the proposed recommendation to the Committee on Adjudication for further consideration—particularly in light of a then-pending Supreme Court decision that may have had bearing on the recommendation (*i.e., Lucia* v. *SEC,* 585 U.S. ___(2018)).

In addition to adopting three recommendations, the Assembly received and commented on a revised version of the Model Adjudication Rules (rev. 2018) prepared by a working group convened by the Conference's Office of the Chairman. The revised Rules offer agencies a complete set of model procedural rules—governing prehearing proceedings, hearings, and appellate review—to improve the fairness and efficiency of their adjudication programs. Once completed, the Rules will be published on the Conference's website and noticed in the **Federal Register**. Public comment on the revised Rules had been sought previously. *See* 83 FR 2958 (Jan. 22, 2018).

The Appendix below sets forth the full texts of the three adopted recommendations. The Conference will transmit them to affected entities, which may include Federal agencies, Congress, and the Judicial Conference of the United States. The recommendations are not binding, so the entities to which they are addressed will make decisions on their implementation.

The Conference based these recommendations on research reports that are posted at: *www.acus.gov/69thPlenary.*

Dated: June 26, 2018.

Shawne C. McGibbon,

General Counsel.

Appendix—Recommendations of the Administrative Conference of the United States

Administrative Conference Recommendation 2018–1

Paperwork Reduction Act Efficiencies

Adopted June 14, 2018

The Paperwork Reduction Act (PRA) created the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget to oversee information policy in the executive branch.[1]

[1] The PRA was enacted in 1980 and has since been amended twice, in 1986 and 1995. *See* Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (codified at 44 U.S.C. 3501–3521).

OIRA's oversight responsibilities include the review and approval of federal agencies' information collections from the public. Information collections are government requests for structured information, such as those requests for information issued through report forms, application forms, schedules, questionnaires, surveys, and reporting or recordkeeping requirements.[2] The goal of the OIRA review process is to ensure that the burden of information collection on the public is justified by the utility of the information to the government. This Recommendation primarily concerns the interaction between agencies and the OIRA review process.

Under the OIRA review process, when an agency seeks to collect structured information from ten or more members of the public,[3] it must follow a series of steps.[4] It must first publish a notice in the **Federal Register** and give the public sixty days to comment. Once the comment period ends, the agency must submit the proposed information collection to OIRA with a detailed supporting statement, ordinarily using the Regulatory Information Service Center and Office of Information and Regulatory Affairs Combined Information System (ROCIS), the computer system used by agencies to submit information collections to OIRA. At the same time, the agency must also publish a second notice in the **Federal Register** asking for comments on the information collection it provided to OIRA. After the thirty days for public comments have elapsed, OIRA has another thirty days to decide whether to approve or disapprove the information collection.

Expedited Clearance Processes

The process of obtaining OIRA approval for an information collection can be lengthy.[5] To address this, OIRA has issued a series of memoranda designed to highlight existing processes that shorten the review time of certain types of information collections, while maintaining the integrity of the review process.[6] The memoranda discuss several categories of information collections that may qualify for expedited clearance from OIRA, such as generic clearances, fast-tracks, and common forms.[7] Generic clearances are generally intended for ''voluntary, low-burden, and uncontroversial collections,'' not for ones with substantive policy impacts.[8] The fast track process, a subset of generic clearances, was designed to encourage agencies to solicit feedback about their services, and is generally used for information collections that focus on customer service feedback.[9] Common forms are information collections that can be used by two or more agencies, or government-wide, for the same purpose.[10]

Agencies' Use of Expedited Clearance Processes

Agencies have used the expedited clearance processes offered by OIRA in varying degrees. Agencies' use of new generic clearances and fast tracks increased after OIRA publicized them and provided training to agencies on their use in 2011, but has since decreased (although agencies continue to seek OIRA approvals extensively under preexisting generic clearances).[11] This is in part because the most likely candidates for generic clearances and fast-track approval were the first ones submitted by agencies. But these techniques have likely also faded in the consciousness of agencies, particularly with the turnover of agency personnel. There also appears to be very little use of the generic clearance and fast track processes to test the usability of forms or obtain feedback to improve agency websites, even though OIRA has indicated that usability testing is a good fit for these processes.[12]

Common forms could also be used to expedite approval of collections and to promote data sharing among agencies, limiting the need for duplicative information collection. Agencies have not used common forms, however, as often as fast-tracks and generic clearances. This may be due to barriers that make it difficult for agencies to collaborate with one another to develop common forms.[13] There also appears to be confusion at agencies about how they should report the burden created by an information collection conducted through a common form.[14] Finally, agencies sometimes avoid common forms because they want to ask for information to suit particular agency needs.[15] Regardless, it appears that there is a great deal of untapped potential for the use of common forms.[16]

Other Opportunities for Facilitating the Clearance Process

Aside from the expedited clearance processes outlined by OIRA, there are other opportunities for making the information collection clearance process more efficient, while still maintaining its integrity. One possibility would be for an agency to review all of the collections that are coming up for renewal without changes for a particular time period and to consolidate the **Federal Register** notices for those renewals. While there is a concern that combining unrelated collections might be confusing to the public, there are also offsetting benefits in terms of consistent information collection—especially for those collections that have previously undergone the review process.

Another opportunity to achieve efficiencies is to update the supporting statement that agencies must submit with each submission of a proposed information collection to OIRA for review.[17] The supporting statement is intended to allow OIRA to evaluate the collections against the statutory criteria in the PRA. Developing it is a significant component of the time it takes agencies to prepare information collections for review, especially new collections. Currently, neither

[2] 5 CFR 1320.3(c)(1), (h)(4) (2018). The PRA applies to the collection of structured information, meaning requests for information calling for either answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, or answers to questions posed to agencies which are to be used for general statistical purposes. *See* 44 U.S.C. 3502(3) (2018).

[3] *See* 44 U.S.C. 3502(3)(A)(i); 5 CFR 1320.3(c)(4).

[4] *See* 44 U.S.C. 3506–3507; 5 CFR pt. 1320.

[5] Stuart Shapiro, The Paperwork Reduction Act: Research on Current Practices and Recommendations for Reform 26 (Feb. 15, 2012) (report to the Admin. Conf. of the U.S.), *https://www.acus.gov/report/final-draft-paperwork-reduction-act-report* (stating that reviews can take from six to nine months).

[6] *See* Cass Sunstein, OIRA Administrator, Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act (Apr. 7, 2010), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/inforeg/SocialMediaGuidance_04072010.pdf;* Cass Sunstein, OIRA Administrator, Paperwork Reduction Act—Generic Clearances (May 28, 2010), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/inforeg/PRA_Gen_ICRs_5-28-2010.pdf;* Cass Sunstein, OIRA Administrator, New Fast-Track Process for Collecting Service Delivery Feedback Under the Paperwork Reduction Act (June 15, 2011), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2011/m11-26.pdf;* Howard Shelanski, OIRA Administrator, Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements (July 22, 2016), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/inforeg/inforeg/pra_flexibilities_memo_7_22_16_finalI.pdf.*

[7] Agencies can also take advantage of expedited approval processes for the following additional categories of information collections: emergencies, non-substantive changes, *de minimis* changes, data search tools and calculators, challenges or prizes, and certain requests for information through social media. *See* Shelanski, *supra* note 6.

[8] When an agency asks for approval of a generic clearance, it is asking for approval of a series of related information collections under a single, umbrella request. The umbrella request describes the individual collections that would fall under it. The umbrella request then goes through the entire PRA process. If OIRA approves the umbrella request for a generic clearance, the individual collections covered by that clearance can be submitted through an expedited approval process in which OIRA reviews the proposed collection within ten days of receipt. *See id.*

[9] The fast track process borrows heavily from the generic clearance process, but fast tracks have a narrower range of uses primarily concerning customer feedback and OIRA reviews requests under the fast-track clearance within five working days. *See id.*

[10] Under the common form approval process, a ''host'' agency secures approval of the collection from OIRA. Later, other agencies that wish to use the form can avoid the two **Federal Register** notices required under the PRA and merely inform OIRA of any additional burden on the public that the use of the form might create. *Id.*

[11] Stuart Shapiro, Paperwork Reduction Act Efficiencies 12–17 (May 14, 2018) (report to the Admin. Conf. of the U.S.), *https://www.acus.gov/report/paperwork-reduction-act-efficiencies-final-report.*

[12] *See id.* at 26–27. Not all types of activities related to testing the usability of forms or website feedback would be covered by the PRA. Direct observations of users interacting with digital services tools are not subject to the PRA. *See* Shelanski, *supra* note 6.

[13] *See* Shapiro, *supra* note 11, at 17–19.

[14] *Id.* Federal ''agencies must report their annual burden as part of OIRA's required submission to Congress of an Information Collection Budget.'' *Id.* at 18 n.38.

[15] Sometimes this is because statutes require agencies to collect data elements not on the common form; in other cases, it may be the agency's preference. *Id.* at 17–19.

[16] *Id.* at 17–19, 24.

[17] The supporting statement consists of the answers to eighteen questions. *Id* at 22. For collections with a statistical component, there is a second part to the supporting statement consisting of five additional questions. *Id.*

agencies nor OIRA are satisfied with it.[18] Refining the supporting statement with the input of agency PRA clearance officers has the potential to reduce the burden on agencies while increasing the practical utility of submissions to OIRA.

Finally, some agencies have also reported difficulties and confusion in using ROCIS.[19] Improvements to ROCIS could reduce agency burden, make agency submissions more useful to OIRA, and increase the usability of the data collected by ROCIS to agencies and the public.

Recommendation

1. To the extent practicable, the Office of Information and Regulatory Affairs (OIRA) should provide training opportunities for agencies on the Paperwork Reduction Act (PRA). The training topics could include basic administration of the PRA; expedited clearance processes, including generic clearances and the use of common forms; and other new and emerging topics in information collection. The method of training could include in-person training of PRA clearance officers, as well as new training materials.

2. Agencies should make greater use of generic clearances to comply with the PRA when engaging in usability testing of websites and other applications.

3. OIRA should encourage the development of common forms. OIRA should ask agencies to provide a list of potential common forms, and facilitate agency coordination and implementation of promising candidates. This list should be included in the Annual Information Collection Budget report that OIRA submits to Congress every year.

4. For information collection requests without changes from previous approvals, OIRA should clarify that agencies may consolidate the first **Federal Register** notice for extensions by taking the following steps:

a. The agency would choose a time period (*e.g.,* six months or a year) and review all of its related collections that are coming up for renewal during that period.

b. The agency would then place a single notice in the **Federal Register** to inform the public that those collections are available for public comment.

5. OIRA, in consultation with agency PRA clearance officers, should revise the supporting statement requirements on information collection submissions to ensure the requirements minimize preparation time and remain practically useful.

6. OIRA, in consultation with agency PRA clearance officers, should make improvements to ROCIS, the internal computer system used to submit information collections to OIRA. OIRA should consider, for example, improvements to the user interface, workflow, and the usability of ROCIS, data to agencies and to the public.

7. OIRA should continue to consult with a working group consisting of agency PRA clearance officers, and with other appropriate experts, to continue improving the PRA clearance process.

[18] Filling out some parts of the form for the supporting statement is perceived by agencies as a *pro forma* exercise, and filling out other parts is perceived as a needlessly time-consuming exercise. From OIRA's perspective, agencies focus too much on discussing burdens of the proposed information collection and not enough time discussing its practical utility. *Id.* at 25.

[19] *Id.* at 22–23, 25–26.

Administrative Conference Recommendation 2018–2

Severability in Agency Rulemaking

Adopted June 15, 2018

If a court holds portions of a rule unlawful, and the agency has been silent about severability, then the default remedy is to vacate the entire rule, including those portions that the court did not hold unlawful.[1] This outcome can impose unnecessary costs on the agency, if it chooses to re-promulgate the portions of the rule that the court did not hold unlawful but nonetheless set aside, and on the public, which would forgo any benefits that would have accrued under those portions of the rule.

In recent years, as administrative rules have become more complex,[2] some agencies have adapted the concept of severability originally developed in the legislative context. Specifically, some agencies have included provisions in some of their rules stating that if portions of the rule are held unlawful in court, other portions not held unlawful should be allowed to go into or remain in effect.[3] To date, only a handful of agencies have used these severability clauses,[4] yet many other agencies issue rules that may be good candidates for considering the possibility of severability.

This Recommendation suggests best practices for agencies in addressing severability in a rulemaking. Addressing severability is not appropriate in every rulemaking. Indeed, if agencies include severability clauses without a reasoned discussion of the rationale behind them and how severability might apply to a particular rule, the courts will be less likely to give them much weight. By contrast, addressing severability can be particularly valuable when an agency recognizes that some portions of its proposed rule are more likely to be challenged than others and that the remaining portions of the rule can and should function independently.

It is not yet clear how principles of severability developed in the context of judicial review of legislation should be adapted to judicial review of agency rules. Nor is it clear how much weight the courts will or should give to an agency's expression of its views on severability. The Supreme Court has never addressed the issue, and the lower courts have reached different results in the context of particular rulemakings.[5]

General principles of administrative law suggest that the agency's views on severability should be most persuasive when: (1) The agency includes its severability proposal in the text of the proposed rule and the agency's initial rationale for severability is explained in the preamble to the proposed rule; (2) these initial positions are made available for comment by interested parties; (3) the agency addresses its determination of severability in the text of the final rule; (4) the agency addresses the rationale for severability in the statement of basis and purpose accompanying the final rule (in the same manner as any other substantive policy issue in the rulemaking); and (5) the agency explains how specific portions of the rule would operate independently. While courts may also be willing to consider the agency's view on severability as expressed in agency briefs or at oral argument,[6] courts may be less likely to agree with the agency if the issue of severability comes up for the first time in litigation because of '' 'the fundamental principle that agency policy is to be made, in the first instance, by the agency itself—not by courts, and not by agency counsel.' ''[7]

Sometimes courts have concluded that an agency's intentions are sufficiently clear to support severability, despite the absence of a severability clause or discussion of the issue in the rulemaking.[8] This outcome is more likely, however, if the agency includes a severability clause in the proposed regulatory text; invites comment; and includes in the rule's statement of basis and purpose a reasoned explanation for why the agency

[1] Admin. Conf. of the U.S., Recommendation 2013–6, *Remand Without Vacatur,* 78 FR 76,269, 76,272 (Dec. 5, 2013); Ronald M. Levin, *Judicial Remedies, in* A Guide to Judicial and Political Review of Federal Agencies 251, 251–52 (Michael E. Herz *et al.* eds., 2d ed. 2015).

[2] Jennifer Nou & Edward H. Stiglitz, *Regulatory Bundling,* 128 Yale L.J. __(forthcoming 2018).

[3] A recent article on severability clauses identified fifty-nine instances in which agencies had included severability clauses in their rules as of October 2014. Charles W. Tyler & E. Donald Elliott, *Administrative Severability Clauses,* 124 Yale L.J. 2286, 2349–52 (2015).

[4] The Federal Trade Commission and Environmental Protection Agency have generated the largest volume of severability clauses. *Id.* at 2318–19.

[5] *See, e.g., Consumer Fin. Prot. Bureau* v. *The Mortg. Law Grp., LLP,* 182 F. Supp. 3d 890, 894–95 (W.D. Wis. 2016) (deferring to severability clause on issue of whether the agency intended for the remainder of the rule to stay in effect); *High Country Conservation Advocates* v. *U.S. Forest Serv.*, No. 13–CV–01723–RBJ, 2014 WL 4470427, at *4 (D. Colo. Sept. 11, 2014) (''I conclude that the severability clause creates a presumption that the North Fork Exception is severable . . . .''); *cf. MD/DC/DE Broads.* v. *FCC,* 253 F.3d 732, 734–36 (D.C. Cir. 2001) (declining to honor an agency's severability clause because the agency did not adequately explain how the remaining portion of the rule would have served the goals for which the rule was designed).

[6] *Am. Petroleum Inst.* v. *EPA,* 862 F.3d 50, 72 (D.C. Cir. 2017) (''If EPA, or any party, wishes to disabuse us of our substantial doubt with a petition for rehearing, we will of course reconsider as necessary.''), *decision modified on reh'g,* 883 F.3d 918 (D.C. Cir. 2018).

[7] *Nat'l Treasury Emps. Union* v. *Chertoff,* 452 F.3d 839, 867 (D.C. Cir. 2006) (quoting *Harmon* v. *Thornburgh,* 878 F.2d 484, 494 (D.C. Cir. 1989)). This is an application of the *Chenery* doctrine, which holds that a reviewing court may not affirm an agency decision on different grounds from those adopted by the agency. *See SEC* v. *Chenery Corp.*, 318 U.S. 80, 92–94 (1943).

[8] *See, e.g., Virginia* v. *EPA,* 116 F.3d 499, 500–01 (D.C. Cir. 1997); Davis Cty. Solid Waste Mgmt., 108 F.3d 1454, 1455–56, 1459–60 (D.C. Cir. 1997); *Nat'l Ass'n of Mfrs.* v. *NLRB,* 846 F. Supp. 2d 34, 62 (D.D.C. 2012), *aff'd in part, rev'd in part,* 717 F.3d 947 (D.C. Cir. 2013).

believes some portions of the rule can and should function independently.

A separate but related question is how parties to a challenge to an agency rule should address the question of severability during litigation. Litigants may be reluctant to address the issue of severability in their briefs because: (1) It is often not clear in advance which portions of a rule a court may hold unlawful and on what basis; or (2) they may fear that addressing severability would suggest weakness in their positions on the merits.[9]

Recommendation

1. Early in the process of developing a rule, in addition to other programmatic considerations, agencies that anticipate litigation should consider whether a rule is divisible into portions that could and should function independently if other portions were to be held unlawful on judicial review.

a. If the agency intends that portions of the rule should continue in effect even if other portions are later held unlawful on judicial review, it should draft the rule so that it is divisible into independent portions that reflect this purpose.

b. In order to provide members of the public an opportunity for comment, agencies should address the issue of severability in the text of the proposed rule and provide a reasoned explanation for the proposal.

c. Agencies should likewise address their determination of severability in the text of the final rule and provide a reasoned explanation for that determination in the statement of basis and purpose. Agencies should identify which portions, if any, they intend to be severable and explain how they relate to other portions in the event a court holds some portions of the rule unlawful.

2. When severability becomes an issue on judicial review, and it has not been previously briefed, courts should solicit the parties' views on severability.

Administrative Conference Recommendation 2018–3

Electronic Case Management in Federal Administrative Adjudication

Adopted June 15, 2018

Courts and adjudicative agencies have increasingly come to rely on technology to manage various aspects of their adjudicative activities. Some of these federal agencies have adopted and implemented a form of electronic management for their casework, but others have not done so. Although practical considerations or resource constraints may sometimes weigh against the use of an electronic case management system (eCMS), agencies can often realize considerable efficiencies and reap other benefits by adopting such a system.

Benefits of an Electronic Case Management System

As referred to here, an electronic case management system includes the functions usually associated with a paper-based case management system from the filing of a case to its resolution and beyond, such as: The initial receipt of the claim, complaint, or petition; the receipt, organization, and secure storage of evidence and briefs; the scheduling of hearings or other proceedings; the maintenance of tools to facilitate the analysis and resolution of the case; and the collection and reporting of data relating to the case, including when evidence was received, the time the case has remained pending, employees who have processed the case, and the outcome of the case, including any agency decision.

An eCMS, properly implemented, may perform these functions in a more efficient and cost-effective manner than a paper-based management system.[1] For example, maintaining paper records can be costly with respect to storage space, mailing fees, and staff time for agency employees needed to receive, store, track, and retrieve records, and locate lost or misfiled records. An eCMS may reduce these costs in addition to reducing processing time and improving interactions with litigants and the public. In addition to improving the traditional functions of a paper-based case management system, an eCMS may also provide new functionalities, such as making structured data available for analysis that can be used to improve an agency's operations.

Perhaps more importantly, an eCMS can assist adjudicative agencies in fulfilling their duties under various laws that impose requirements related to paperwork reduction, agency efficiency, public access to records, and technology management. For example, the Government Paperwork Elimination Act requires that federal agencies use electronic forms, electronic filing, and electronic signatures to conduct official business with the public, when practicable.[2] Further, the E-Government Act of 2002 directs agencies to establish ''a broad framework of measures that require using internet-based information technology to improve citizen access to government information and services.''[3] And finally, beyond statutory requirements, an eCMS can also assist an agency's implementation of best practices for public access and participation, consistent with the objectives of past ACUS recommendations relating to both adjudication and rulemaking.[4]

Considerations in Adopting an Electronic Case Management System

Despite the advantages of an eCMS, the decision to implement an eCMS must be carefully considered. It may not be cost efficient for every adjudicative agency to implement an eCMS given agency-specific factors such as caseload volume. For example, there may be significant costs associated with the development, purchase, and maintenance of new hardware and software. Further, the need to train agency staff in new business processes associated with the eCMS may also be significant, as the new operations may be substantially different. In addition, an agency may need to allocate resources to ensure that any new eCMS complies with existing legal requirements, such as the protection of private information about individuals, as required by the Privacy Act.[5]

If, after considering the costs, an agency decides to implement an eCMS to partially or fully replace a paper-based case management system, the agency must consider a number of factors in deciding *what* particular eCMS features are to be used and *how* they are to be designed and implemented. Planning for an eCMS implementation thus requires a comprehensive understanding of an agency's structure and business process. Agencies considering implementing or enhancing an eCMS may find further benefit in studying the experiences of other agencies' eCMS implementations, and they should examine those experiences carefully, due to the highly fact-specific nature of a consideration of the costs and benefits of an eCMS.

The implementation or expansion of an eCMS deserves full and careful consideration by federal adjudicative agencies, with recognition that each agency is unique in terms of its mission, caseload, and challenges. This Recommendation suggests that agencies implement or expand an eCMS only when they conclude, after conducting a thorough consideration of the costs and benefits, that doing so would lead to benefits such as reduced costs and improved efficiency, accuracy, public access, and transparency without impairing the fairness of the proceedings or the participants' satisfaction with them.

Recommendation

1. Federal adjudicative agencies should consider implementing electronic case management systems (eCMS) in order to reduce costs, expand public access and transparency, increase both efficiency and accuracy in the processing of cases, identify opportunities for improvement through the analysis of captured data, and honor statutory requirements such as the protection of personally identifiable information.

2. Federal adjudicative agencies should consider whether their proceedings are conducive to an eCMS and whether their facilities and staff can support the eCMS technology. If so, agencies should then consider the costs and benefits to determine

[9] Charles W. Tyler & E. Donald Elliott, Tailoring the Scope of Judicial Remedies in Administrative Law 22 (May 4, 2018) (report to the Admin. Conf. of the U.S.), *https://www.acus.gov/report/tailoring-scope-judicial-remedies-administrative-law-final-report.*

[1] Felix F. Bajandas & Gerald K. Ray, Implementation and Use of Electronic Case Management Systems in Federal Agency Adjudication (May 23, 2018) (report to the Admin. Conf. of the U.S.), *https://acus.gov/report/final-report-implementation-and-use-electronic-case-management-systems-federal-agency.*

[2] Government Paperwork Elimination Act, Public Law 105–277, 112 Stat. 2681–749 (1998) (codified at 44 U.S.C. 3504 note).

[3] E-Government Act of 2002, Public Law 107–347, 116 Stat. 2899 (codified at 44 U.S.C. 101 note).

[4] *See* Admin. Conf. of the U.S., Recommendation 2017–1, *Adjudication Materials on Agency websites,* 82 FR 31,039, 31,039 (Jul. 5, 2017); Admin. Conf. of the U.S., Recommendation 2013–5, *Social Media in Rulemaking,* 78 FR 76,269, 76,269 (Dec. 17, 2013); and Admin. Conf. of the U.S., Recommendation 2011–1, *Agency Innovations in E-Rulemaking,* 77 FR 2,257, 2,264 (Jan. 17, 2012).

[5] Privacy Act of 1974 (codified at 5 U.S.C. 552a), as amended by the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (codified at 5 U.S.C. 101 note).

whether the implementation or expansion of an eCMS would promote the objectives identified in Recommendation 1 as well as the agency's statutory mission without impairing the fairness of proceedings or the participants' satisfaction with them. This consideration of the costs and benefits should include the following non-exclusive factors:

a. Whether the agency's budget would allow for investment in appropriate and secure technology as well as adequate training for agency staff.

b. Whether the use of an eCMS would reduce case processing times and save costs, including printing of paper and the use of staff resources to store, track, retrieve, and maintain paper records.

c. Whether the use of an eCMS would foster greater accessibility and better public service.

d. Whether users of an eCMS, such as administrative law judges, other adjudicators, other agency staff, parties, witnesses, attorneys or other party representatives, and reviewing officials would find the eCMS beneficial.

e. Whether the experiences of other agencies' eCMS implementations provide insight regarding other factors which may bear on the manner of an eCMS implementation.

3. The following possible eCMS features, currently implemented by some federal adjudicative agencies, should be considered by other agencies for their potential benefits:

a. Web access to the eCMS that allows parties the flexibility to file a claim, complaint, or petition; submit documents; and obtain case information at any time.

b. Streamlining of agency tasks in maintaining a case file, such as sorting and organizing case files, providing simultaneous access to files and documents by authorized users, tracking deadlines and elapsed age of a case, notifying parties of new activity in a case, and pre-populating forms with data from the case file.

c. The comprehensive capture of structured and unstructured data that allows for robust data analysis to identify opportunities for improving an agency's operations, budget formulation, and reporting.

d. Streamlined publication of summary data on agency operations.

4. Federal adjudicative agencies that decide to implement or expand an eCMS should plan and manage their budgets and operations in a way that balances the needs of a sustainable eCMS with the possibility of future funding limitations. Those agencies should also:

a. Consider the costs associated with building, maintaining, and improving the eCMS.

b. Consider whether the adoption of an eCMS requires modifications of an agency's procedural rules. This would include addressing whether the paper or electronic version of a case file will constitute the official record of a case and whether filing methods and deadlines need to be changed.

c. Consider whether to require non-agency individuals to file claims, complaints, petitions, and other papers using the eCMS. Such consideration should include the accessibility, suitability, usability, and burden of the eCMS for its likely user population, and whether creating exceptions to electronic filing procedures would assist in maintaining sufficient public access.

d. Create a map or flow chart of their adjudicative processes in order to identify the needs of an eCMS. This involves listing the tasks performed by employees at each step in the process to ensure the eCMS captures all of the activities that occur while the case is pending, from initial filing to final resolution. It also includes identifying how members of the public or other non-agency users will access and interact with the eCMS. To the extent practical, this effort should also involve mapping or flow-charting the legal and policy requirements to decisional outcomes.

e. Put in place a management structure capable of: (1) Restoring normal operations after an eCMS goes down (incident management); (2) eliminating recurring problems and minimizing the impact of problems that cannot be prevented (problem management); (3) overseeing a new release of an eCMS with multiple technical or functional changes (release management); (4) handling modifications, improvements, and repairs to the eCMS to minimize service interruptions (change management); and (5) identifying, controlling, and maintaining the versions of all of the components of the eCMS (configuration management).

f. Establish a ''service desk,'' which is a central hub for reporting issues with the eCMS, providing support to eCMS users, and receiving feedback on the resolution of problems. A service desk should gather statistics of eCMS issues in order to help guide future improvements of the eCMS. A service desk could also enable eCMS users to offer suggestions for improving the eCMS.

g. Plan adequate and timely training for staff on the use of the eCMS.

5. Federal adjudicative agencies that decide to implement or expand an eCMS must do so in such a way that appropriate protections for privacy, transparency, and security are preserved by:

a. Ensuring that the agency's compliance with the Privacy Act, other statutes protecting privacy, and the agency's own privacy regulations and policies remains undiminished by the implementation or expansion of an eCMS.

b. To the extent it is consistent with Recommendation 5(a) above, making case information available online to parties and, when appropriate, the public, taking into account both the interests of transparency (as embodied in, for example, the Freedom of Information Act's proactive disclosure requirements) as well as the benefits of having important adjudicative documents publicly available.

c. Adopting security measures, such as encryption, to ensure that information held in an eCMS cannot be accessed or changed by unauthorized persons.

d. Ensuring that sensitive information is not provided to unintended third parties through private email services, unsecured data transmission, insider threats, or otherwise.

e. Keeping track of the evolution of security technologies and considering the adoption of those technologies as they mature in order to ensure the integrity of agency information systems.

6. Federal adjudicative agencies that decide to implement or expand an eCMS should consider how to analyze and leverage data that is captured by the eCMS to improve their adjudicative processes, including through the use of natural language processing, machine learning, and predictive algorithms. Agencies should consider:

a. Evaluating how eCMS features could generate the types of data that would be useful for evaluating the effectiveness of their adjudicative processes and policies.

b. Capturing and analyzing such data about adjudicative processes and policies to detect and define problem areas that present opportunities for improvement.

c. Upon identification of areas for improvement in the adjudication process, taking corrective action, refining performance goals, and measuring performance under the newly improved process.

d. Hiring staff trained in data science to facilitate data analysis and giving that staff access to subject matter experts within agencies.

e. Collaborating with other agencies on best practices for data analytics.

[FR Doc. 2018–14075 Filed 6–28–18; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Determination of Total Amounts of Fiscal Year 2019 WTO Tariff-Rate Quotas for Raw Cane Sugar and Certain Sugars, Syrups and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The Office of the Secretary of the Department of Agriculture (the Secretary) announces the establishment of the Fiscal Year (FY) 2019 (October 1, 2018–September 30, 2019) in-quota aggregate quantity of raw cane sugar at 1,117,195 metric tons raw value (MTRV), and the establishment of the FY 2019 in-quota aggregate quantity of certain sugars, syrups, and molasses (also referred to as refined sugar) at 192,000 MTRV.

DATES: These quantities are established as of June 29, 2018.

ADDRESSES: Souleymane Diaby, Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW, Washington, DC 20250–1021.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, (202) 720–2916, *Souleymane.Diaby@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: The provisions of paragraph (a)(i) of the

Additional U.S. Note 5, Chapter 17 in the U.S. Harmonized Tariff Schedule (HTS) authorize the Secretary to establish the in-quota tariff-rate quota (TRQ) amounts (expressed in terms of raw value) for imports of raw cane sugar and certain sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties during each fiscal year. The Office of the U.S. Trade Representative (USTR) is responsible for the allocation of these quantities among supplying countries and areas.

Section 359(k) of the Agricultural Adjustment Act of 1938, as amended, requires that at the beginning of the quota year the Secretary of Agriculture establish the TRQs for raw cane sugar and refined sugars at the minimum levels necessary to comply with obligations under international trade agreements, with the exception of specialty sugar.

The Secretary's authority under paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the U.S. Harmonized Tariff Schedule (HTS) and Section 359(k) of the Agricultural Adjustment Act of 1938, as amended, has been delegated to the Under Secretary for Trade and Foreign Agricultural Affairs (7 CFR 2.26).

Notice is hereby given that I have determined, in accordance with paragraph (a)(i) of the Additional U.S. Note 5, Chapter 17 in the HTS and section 359(k) of the 1938 Act, that an aggregate quantity of up to 1,117,195 MTRV of raw cane sugar may be entered or withdrawn from warehouse for consumption during FY 2019. This is the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements. I have further determined that an aggregate quantity of 192,000 MTRV of sugars, syrups, and molasses may be entered or withdrawn from warehouse for consumption during FY 2019. This quantity includes the minimum amount to which the United States is committed under the WTO Uruguay Round Agreements, 22,000 MTRV, of which 20,344 MTRV is established for any sugars, syrups and molasses, and 1,656 MTRV is reserved for specialty sugar. An additional amount of 170,000 MTRV is added to the specialty sugar TRQ for a total of 171,656 MTRV.

Because the specialty sugar TRQ is first-come, first-served, tranches are needed to allow for orderly marketing throughout the year. The FY 2019 specialty sugar TRQ will be opened in five tranches. The first tranche, totaling 1,656 MTRV, will open October 1, 2018. All specialty sugars are eligible for entry under this tranche. The second tranche will open on October 10, 2018, and be equal to 50,000 MTRV. The third tranche of 50,000 MTRV will open on January 23, 2019. The fourth tranche of 35,000 MTRV will open on April 17, 2019. The fifth tranche will open on July 17, 2019, and be equal to 35,000 MTRV. The second, third, fourth, and fifth tranches will be reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources.

* *Conversion factor:* 1 metric ton = 1.10231125 short tons.

Dated: June 25, 2018.

Jason Hafemeister,

Acting Under Secretary, Trade and Foreign Agricultural Affairs.

[FR Doc. 2018–14018 Filed 6–28–18; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0034]

Notice of Intent To Prepare an Environmental Impact Statement; Movement and Outdoor Use of Certain Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare a programmatic environmental impact statement.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) plans to prepare a programmatic environmental impact statement (EIS) in connection with potential changes to the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms. This notice identifies potential issues to be evaluated in the EIS and requests public comments to define the scope of the alternatives and environmental impacts and issues for APHIS to consider.

DATES: We will consider all comments that we receive on or before July 30, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0034*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0034, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0034* 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: Ms. Joanne Serrels, Biotechnologist, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1238; (301) 851–3867.

SUPPLEMENTARY INFORMATION:

Background

The Plant Protection Act (PPA) authorizes the Animal and Plant Health Inspection Service (APHIS) to protect plant health in the United States. Under that authority, APHIS currently regulates the introduction (movement into the United States or interstate, or release into the environment) of genetically engineered (GE) organisms that may present a plant pest risk through its 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.'' These regulations are intended to protect against plant pest risks to plant health by providing for the safe importation, interstate movement, or release into the environment of certain GE organisms.

APHIS' regulation of certain GE organisms to protect plant health is aligned with the Federal Coordinated Framework for the Regulation of Biotechnology (henceforth referred to as the Coordinated Framework), the comprehensive Federal regulatory policy for ensuring the safety of biotechnology research and products in the United States. The Coordinated Framework describes how Federal agencies will use their regulatory authorities under existing Federal statutes to ensure public health and environmental safety while maintaining regulatory flexibility to avoid impeding the growth of the biotechnology industry. The Coordinated Framework sets forth a science- and risk-based approach for the oversight of activities that introduce biotechnology products into the environment and describes the roles and responsibilities for the three major Federal agencies involved in

regulating biotechnology products: APHIS, the Environmental Protection Agency, and the Food and Drug Administration. This document addresses only proposed changes to the APHIS regulations and is not intended to circumscribe, restrict, or otherwise preclude future actions taken by other Federal agencies under their respective authorities.

During the past 30 years, there have been major advances in the science of biotechnology, and new issues have been brought to APHIS' attention by a range of stakeholders. Over this period, APHIS has also gained considerable experience in assessing the plant health risks of GE organisms. Accordingly, APHIS is considering amending the regulations pertaining to movement and outdoor use of certain GE organisms to address the advances in biotechnology and APHIS' understanding of the issues raised by stakeholders. The proposed revisions would allow APHIS to more effectively protect plant health under the PPA by focusing APHIS' regulations in 7 CFR part 340 on risks that may be posed by certain GE organisms rather than on the methods used to produce the products and would also make the regulatory processes more transparent while removing unnecessary regulatory burdens.

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental impacts of proposed Federal actions and alternatives. We are planning to prepare a programmatic environmental impact statement (EIS) in connection with the proposed revisions to APHIS' biotechnology regulations that are being considered. Aspects of the human environment that may be affected by the proposed regulatory changes and that we have preliminarily identified for evaluation in the EIS will include potential impacts on:

- U.S. agriculture and forestry production (*e.g.,* conventional, biotechnology-based, and organic);
- Current and future uses of certain GE organisms in agriculture and forestry;
- Agronomic practices employed in GE crop production that may have environmental consequences or effects (*e.g.,* tillage, crop rotation, weed and pest control, and agronomic inputs);
- Aspects of the physical environment, including soil quality, water resources, and air quality, with consideration given to the effects of dynamic climate conditions;
- Aspects of the biological environment, such as animal and plant communities, the development of weed, pathogen, and insect resistance to pesticides, the potential gene flow from certain GE organisms to sexually compatible species, the weediness of GE crop plants, and biodiversity;
- Consumer health and agricultural worker safety; and
- Animal feed safety, availability, quality, and animal health.

We will also examine socioeconomic considerations, such as the potential impacts of crop plants that are GE organisms on the domestic economic environment, international trade, and coexistence among all forms of U.S. agriculture—conventional, biotechnology-based, and organic—and on market demand for food, feed, fiber, and fuel.

The EIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) U.S. Department of Agriculture regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

This notice identifies the potential issues that will be evaluated in the EIS, and requests public comment to help APHIS further define the issues and alternatives that should be considered and to help APHIS identify additional impacts, both positive and negative, to the human environment that should be examined in the EIS. Public input will also be helpful in developing our proposed regulations. All comments received during the comment period will be carefully considered. A notice will be published in the **Federal Register** to announce the availability of the draft EIS when it is issued and to invite the public to provide comments.

Done in Washington, DC, this 26th day of June 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–14019 Filed 6–28–18; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee Advisory Committee will hold a meeting on Wednesday, August 8, 2018 to work on post-report planning for the Civil Asset Forfeiture report and discuss potential future work on legal financial obligations and civil rights issues.

DATES: The meeting will be held on Wednesday August 8, 2018 12:30 p.m. EST. Public Call Information: The meeting will be by teleconference. Toll-free call-in number: 888–334–3032, conference ID: 5510752.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov.*

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: 888–334–3032, conference ID: 5510752. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Written comments may be mailed to the Regional Program Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or may be emailed to the Regional Director, Jeff Hinton at *jhinton@usccr.gov.* Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda:

Welcome and Call to Order
- Diane DiIanni, Tennessee SAC Chairman
- Jeff Hinton, Regional Director

Regional Update—Jeff Hinton

New Business: Diane DiIanni, Tennessee SAC Chairman/Staff/Advisory Committee Public Participation

Adjournment

Dated: June 25, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–13961 Filed 6–28–18; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Michigan Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting on Wednesday July 18, 2018, at 3 p.m. EDT for the purpose discussing civil rights concerns in the state.

DATES: The meeting will be held on Wednesday July 18, 2018, at 3 p.m. EDT.

Public Call Information: Dial: 877–741–4240, Conference ID: 7669620.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@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 above toll-free call-in number. 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 1–800–877–8339 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, 230 S Dearborn St., Suite 2120, Chicago, IL 60604. 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, Michigan Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=255*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions
Discussion: Civil Rights in Michigan
Public Comment
Future Plans and Actions
Adjournment

Dated: June 25, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–13970 Filed 6–28–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–66–2018]

Approval of Subzone Status; Amcor Flexibles LLC; Shelbyville, Kentucky

On May 1, 2018 the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, requesting subzone status subject to the existing activation limit of FTZ 29, on behalf of Amcor Flexibles LLC, in Shelbyville, Kentucky.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 20034, May 7, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 29N was approved on June 26, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 29's 2,000-acre activation limit.

Dated: June 26, 2018.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2018–14027 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–64–2018]

Approval of Subzone Expansion; Brake Parts Inc.; Hazleton, Pennsylvania

On April 30, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Eastern Distribution Center, Inc., grantee of FTZ 24, requesting an expansion of Subzone 24E on behalf of Brake Parts Inc in Hazleton, Pennsylvania.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 19524, May 3, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to expand Subzone 24E was approved on June 26, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 24's 2,000-acre activation limit.

Dated: June 26, 2018.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2018–14026 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–882]

Large Diameter Welded Pipe From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from India for the period of investigation of January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Suzanne Lam or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0783 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On April 2, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 19, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I. Interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determinations. We will notify parties of the due dates for these briefs at a later time.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of welded pipe from India, based on a request made by American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners).[9] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 5, 2018, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually investigated. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually investigated, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually investigated are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated subsidy rate for all-other producers or exporters. In this case, the countervailable subsidy rate calculated for the investigated companies is based entirely on facts available under section 776 of the Act. However, there is no other information on the record upon which to determine an all-others rate. As a result, we have used the rate assigned to Bhushan Steel and Welspun Trading Limited as the all-others rate.

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[1] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 83 FR 7148 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 83 FR 13946 (April 2, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Large Diameter Welded Pipe from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Large Diameter Welded Pipe from India: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,'' dated June 5, 2018.

This method is consistent with Commerce's past practice.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Bhushan Steel	541.15
Welspun Trading Limited	541.15
All-Others	541.15

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually examined companies (Bhushan Steel and Welspun Trading Limited) in this investigation, in accordance with section 776 of the Act, and because our calculation of the AFA subsidy rate is outlined in Appendix I of the Preliminary Decision Memorandum, there are no further calculations to disclose.

Verification

Because the examined respondents in this investigation did not provide information requested by Commerce, and Commerce preliminarily determines each of the examined respondents to have been uncooperative, it will not conduct verification of the mandatory respondents. The Government of India (GOI) did provide some information requested by Commerce; Commerce intends to seek additional information after the preliminary determination concerning certain programs the GOI claimed the mandatory respondents did not use, and may verify any information received, if appropriate.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance at a date to be determined. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of Commerce's affirmative preliminary determination or 45 days after the date of Commerce's affirmative final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 19, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[10] *See, e.g., Circular Welded Carbon-Quality Steel Pipe from India: Final Affirmative Countervailing Duty Determination,* 77 FR 64468 (October 22, 2012).

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[FR Doc. 2018–13564 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–898]

Large Diameter Welded Pipe From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) for the period of investigation of January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: George Ayache, Irene Gorelik, or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2623, (202) 482–6905, or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On April 2, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 19, 2018.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I. Interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determinations. We will notify parties of the due dates for these briefs at a later time.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of welded pipe from Korea based on a request made by American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners).[9] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 5, 2018, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually investigated. This rate shall be an

[1] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 83 FR 7148 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 83 FR 13946 (April 2, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Affirmative Preliminary Determination of the Countervailing Duty Investigation of Large Diameter Welded Pipe from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Large Diameter Welded Pipe from the Republic of Korea: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,'' dated June 5, 2018.

amount equal to the weighted average of the estimated subsidy rates established for those companies individually investigated, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily found *de minimis* rates for Husteel Co., Ltd. and Hyundai Steel Company. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for SeAH Steel Corporation. Consequently, the rate calculated for SeAH Steel Corporation is also assigned as the rate for all-other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Husteel Co., Ltd	0.01
Hyundai Steel Company [10]	0.44
SeAH Steel Corporation [11]	3.31
All-Others Rate	3.31

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above, as appropriate. Because the subsidy rates for the Husteel Co., Ltd. and Hyundai Steel Company are zero or *de minimis,* Commerce will direct CBP not to suspend liquidation of entries of the merchandise from these companies.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 19, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[10] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Hyundai Steel Company: Hyundai Corporation.

[11] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with SeAH Steel Corporation: ESAB SeAH Corporation.

[12] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Injury Test
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Subsidies Valuation
VI. Analysis of Programs
VII. Conclusion

[FR Doc. 2018–13566 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–982]

Utility Scale Wind Towers From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty order on utility scale wind towers from the People's Republic of China (China) for the period January 1, 2017, through December 31, 2017.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2018, based on a timely request for review by the Wind Tower Trade Coalition (the petitioner),[1] Commerce published in the **Federal Register** a notice of initiation of an administrative review of the countervailing duty order on utility scale wind towers from China with respect to 56 companies for the period January 1, 2017, through December 31, 2017.[2] On May 21, 2018, the petitioner withdrew its request for an administrative review of all 56 companies.[3] No other party requested a review of the countervailing duty order.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, the petitioner timely withdrew its request for review within the 90-day deadline, and no other party requested an administrative review of the countervailing duty order. As a result, pursuant to 19 CFR 351.213(d)(1), we are rescinding the administrative review of the countervailing duty order on utility scale wind towers from China for the period January 1, 2017, through December 31, 2017, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. Because Commerce is rescinding this administrative review in its entirety, entries of utility scale wind towers from China during the period January 1, 2017, through December 31, 2017, shall be assessed countervailing duties at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 21, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018–13804 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–078]

Large Diameter Welded Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers/exporters of large diameter welded pipe (welded pipe) from the People's Republic of China (China) for the period of investigation of January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0486 or (202) 482–7425, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On April 2, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 19, 2018.[2] For a complete

[1] *See* Letter from the petitioner, ''Utility Scale Wind Towers from the People's Republic of China: Request for Administrative Review,'' dated February 28, 2018.

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 16,298 (April 16, 2018).

[3] *See* Letter from the petitioner, ''Utility Scale Wind Towers from the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated May 21, 2018.

[1] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 83 FR 7148 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of*

Continued

description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from China. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I. Interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determinations. We will notify parties of the due dates for these briefs at a later time.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

In making these findings, Commerce relied totally on facts available, because neither the GOC nor any of the selected mandatory respondent companies responded to the questionnaire. Further, because these parties did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of welded pipe from China based on a request made by American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners).[9] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 5, 2018, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually investigated. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually investigated, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually investigated are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated subsidy rate for all-other producers or exporters. In this case, the countervailable subsidy rate calculated for the investigated companies is based entirely on facts available under section 776 of the Act. However, there is no other information on the record upon which to determine an all-others rate. As a result, we have used the rate assigned to the mandatory respondents as the all-others rate. This method is consistent with Commerce's past practice.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Hefei Zijin Steel Tube Manufacturing Co	198.49
Hefei Ziking Steel Pipe	198.49
Panyu Chu Kong Steel Pipe Co. Ltd	198.49
All-Others	198.49

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the Scope of the Investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Preliminary Determinations in the Countervailing Duty Investigations, 83 FR 13946 (April 2, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Large Diameter Welded Pipe from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Large Diameter Welded Pipe from the People's Republic of China: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,'' dated June 5, 2018.

[10] *See e.g., Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 79 FR 59221 (October 1, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than thirty days after the date of publication of this notice in the **Federal Register**. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Dated: June 19, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2018–13567 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–834]

Large Diameter Welded Pipe From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from the Republic of Turkey (Turkey) for the period of investigation of January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Ross Belliveau or Ajay Menon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4952 or (202) 482–1993, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 20, 2018.[1] On April 2, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 19, 2018.[2] For a complete

[1] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 83 FR 7148 (February 20, 2018) (*Initiation Notice*).

[2] *See Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea,* Continued

description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is welded pipe from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* revised scope in Appendix I. Interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determinations. We will notify parties of the due dates for these briefs at a later time.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of welded pipe from Turkey based on a request made by American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners).[8] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 5, 2018, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually investigated. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually investigated, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) and HDM Çelik Boru Sanayi ve Ticaret A.S. (HDM Celik) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.[9]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
HDM Çelik Boru Sanayi ve Ticaret A.S.[10]	3.76
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.[11]	1.08
All-Others	1.89

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to

and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations, 83 FR 13946 (April 2, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Affirmative Preliminary Determination of the Countervailing Duty Investigation of Large Diameter Welded Pipe from the Republic of Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* Petitioners' Letter, ''Large Diameter Welded Pipe from the Republic of Turkey: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,'' dated June 5, 2018.

[9] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

[10] As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with HDM Celik: HDM Spiral Kaynakli Celik Boru A.S.

[11] following companies to be cross-owned with Borusan: Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S.

interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 19, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing countervailing duty order on welded line pipe from the Republic of Turkey. *See Welded Line Pipe from the Republic of Turkey: Countervailing Duty Order,* 80 FR 75054 (December 1, 2015).

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2018–13565 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

DATES: Applicable June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1791, or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 2018, the Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation on certain quartz surface products from the People's Republic of China.[1] Currently, the preliminary determination is due no later than July 11, 2018.

Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary

[12] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[1] *See Certain Quartz Surface Products from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 22618 (May 16, 2018).

determination in a countervailing duty investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On June 11, 2018, the petitioner, Cambria Company LLC, submitted a timely request that we postpone the preliminary CVD determination because: (1) Commerce was not able to issue its respondent selection memorandum until June 8, 2018; and (2) as a result, responses to the CVD questionnaire are not due until July 16, 2018 (*i.e.,* after the statutory deadline for the preliminary determination). Moreover, the petitioner noted that, because Commerce just identified the mandatory respondents, it has only now begun its research to identify any additional subsidy benefits not addressed in the Petition. Accordingly, the petitioner maintains that, because this investigation is likely to be more complicated than usual, additional time is necessary to ensure that Commerce can conduct a full investigation regarding the subsidy benefits received by Chinese producers and exporters of quartz surface products.[2]

In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, pursuant to section 703(c)(1)(A) of the Act, we are extending the due date for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* to September 14, 2018. Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(l).

Dated: June 20, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–13694 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* Letter from the petitioner, ''Certain Quartz Surface Products from the People's Republic of China: Request to Postpone Preliminary Determination,'' dated June 11, 2018.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; Analysis of Exoskeleton-Use for Enhancing Human Performance Data Collection

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before August 28, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 1401 Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Elizabeth Reinhart, NIST Management and Organization Office, 100 Bureau Drive, Gaithersburg, MD 20899; 301–975–8707; *elizabeth.reinhart@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Exoskeletons—sometimes called wearable robots—are a very rapidly expanding domain with a range of applications and a broad diversity of designs. NIST's Engineering Laboratory will be developing methods to evaluate performance of exoskeletons in two key areas (1) The fit and motion of the exoskeleton device with respect to the users' body and (2) The impact that using an exoskeleton has on the performance of users executing tasks that are representative of activities in industrial settings. The results of these experiments will inform future test method development at NIST, other organizations, and under the purview of the new American Society for Testing Materials (ASTM) Committee F48 on Exoskeletons and Exosuits.

For the first research topic, NIST will evaluate the usefulness of a NIST prototype apparatus for measuring the difference in performance of a person wearing an exoskeleton versus the person's baseline without the exoskeleton while positioning loads and tools. The NIST Position and Load Test Apparatus for Exoskelons (PoLoTAE), which presents abstractions of industrial task challenges, will be evaluated in this research.

For the second research topic, NIST will evaluate a method for measuring the alignment of an exoskeleton to human joint (knee) and any relative movement between the exoskeleton and user. Measurement methods prototyped by NIST for evaluating exoskeleton on mannequin position and motion will be applied to human subjects to verify the usefulness of optical tracking system and designed artifacts worn by users as measurement methods.

Participants will be chosen from volunteers within NIST and adult NIST visitors to participate in the study. Gender and size diversity will be sought in the population of participants. No personally identifiable information (PII) will be recorded unless subject consent for PII disclosure is received. NIST intends to publish information on the analysis and results.

II. Method of Collection

Participants will give informed consent prior to participating in the research. Information may be collected via a paper background questionnaire which may include disclosure of health information which may be relevant for safety and research reasons. Data will be collected using a combination of heart rate monitor, and video and still cameras to collect time and subject activity to correlate heart rate with activity and an optical tracking system which detects markers. Participants will be asked to complete a paper survey once data is collected for the research.

III. Data

OMB Control Number: 0693–XXXX.

Form Number(s): None.

Type of Review: New information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 250.

Estimated Time per Response: 1.5 hours.

Estimated Total Annual Burden Hours: 375 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

NIST invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–14047 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG288

Marine Mammals; File No. 21485

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Jooke Robbins, Ph.D., Center for Coastal Studies, 5 Holway Avenue, Provincetown, MA 02657, has applied in due form for a permit to conduct research on cetaceans.

DATES: Written, telefaxed, or email comments must be received on or before July 30, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21485 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to continue a long-term study of large whales in the Western Atlantic Ocean. The focus of the research would be on humpback (*Megaptera novaeangliae*) and fin (*Balaenoptera physalus*) whales, but six other whale species would be studied if observed. Research would occur in three study areas: (1) Gulf of Maine and adjacent waters, (2) waters off U.S. mid-Atlantic and southeastern states, and (3) humpback breeding grounds, including U.S. waters off Puerto Rico. Research would occur during vessel surveys and include photo-identification, photogrammetry, behavioral observations, and sampling of exhaled air, skin, blubber, and feces. An additional 11 species of small cetaceans, two species of pinnipeds, and North Atlantic right whales (*Eubalena glacialis*) may be incidentally harassed during research. The objectives of the research are to study the biology and ecology of these whale species by examining population dynamics, movement and habitat use patterns, molecular genetics, reproduction, aging, toxicology, foraging ecology, health, entanglement, and other human interactions. The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 25, 2018.

Amy Sloan,

Deputy Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–13997 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF530

Marine Mammals; File No. 21006

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Linnea Pearson, California Polytechnic State University, 1 Grand Ave., San Luis Obispo, CA 93407, has applied for an amendment to Scientific Research Permit No. 21006.

DATES: Written, telefaxed, or email comments must be received on or before July 30, 2018.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21006 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation

Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 21006 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 21006, issued on September 15, 2017 (82 FR 48985; October 23, 2017), authorizes the permit holder to conduct research on Weddell seals in the Antarctic. The permit holder is requesting the permit be amended to include authorization for: Increased take of pups to twelve total, sedation of six additional pups at one week of age, collection of blood samples at four time points for six additional pups, use of a cannulated needle for biopsy instead of a biopsy punch, attachment of flipper mounted VHF and accelerometer tags to pups at one week of age, and use of antibiotics to treat local or systemic infection.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–14007 Filed 6–28–18; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service previously provided by such agencies.

DATES: Comments must be received on or before July 29, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s):
- 2940–01–113–1248—Filter Element, Intake Air Cleaner
- 2940–01–131–7666—Filter Element, Intake Air Cleaner, HEMTT
- 2940–01–170–4904—Filter Element, Intake Air Cleaner, Cylindrical
- 4330–01–217–8184—Filter Element, Hydraulic Fluid, HEMTT
- 4330–01–232–8305—Filter Element, Hydraulic Fluid, Reservoir, HEMTT
- 2910–01–559–5916—Filter, Fluid

Mandatory for: 100% of the requirement of the Department of Defense

Mandatory Source of Supply: North Central Sight Services, Inc., Williamsport, PA

Contracting Activity: Defense Logistics Agency Land and Maritime

Distribution: C-List

NSN(s)—Product Name(s): 8115–01–582–9709—Box, Shipping, Multi-Use, Grey, 48″ x 32″ x 26″

Mandatory for: Total Government Requirement

Mandatory Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX

Contracting Activity: General Services Administration, New York, NY

Distribution: A-List

Deletions

The following products and service are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
- 7510–01–600–5979—Cartridge, Toner, Monochrome Laser Printer, Double Yield, HP 38A Compatible, Black
- 7510–01–625–1736—Toner Cartridge, Laser, Extra High Yield, HP P3015 Series Compatible
- 7510–01–625–4080—Toner cartridge, Laser, Extra High Yield, HP Compatible for the M600
- 7510–01–625–0849—Toner Cartridge, Laser, Double Yield, Compatible w/ Lexmark E230 & other LM, Dell, & IBM printers
- 7510–01–625–1729—Toner Cartridge, Laser, Extra High Yield, Lexmark SC 630 Series

Mandatory Source of Supply: Alabama Industries for the Blind, Talladega, AL

Mandatory Source of Supply: Lighthouse Works, Orlando, FL

Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s):
- 7510–01–590–1496—Laser Toner Cartridge, HP 39A compatible
- 7510–01–590–1497—Laser Toner Cartridge, HP 96A compatible
- 7510–01–590–1498—Laser Toner Cartridge, HP 49A compatible
- 7510–01–590–1499—Laser Toner Cartridge, HP 49X compatible
- 7510–01–590–1501—Laser Toner Cartridge, HP 13A & 13X compatible
- 7510–01–590–1502—Laser Toner Cartridge, 43X compatible
- 7510–01–590–1506—Laser Toner Cartridge, HP 10A compatible

Mandatory Sources of Supply: Lighthouse Works, Orlando, FL
Alabama Industries for the Blind, Talladega, AL

Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s):
- 5510–00–171–7700—Stakes, Wood, 1″ x 2″ x 16″
- 5510–00–171–7701—Stakes, Wood, 1″ x 2″ x 14″
- 5510–00–171–7732—Stakes, Wood, 2″ x 2″ x 16″
- 5510–00–171–7733—Stakes, Wood, 2″ x 2″ x 12″
- 5510–00–171–7734—Stakes, Wood, 1″ x 2″ x 18″

8460–01–193–9769—Briefcase, Smoke Gray
8460–01–352–3064—Briefcase, Navy Blue
8460–01–364–9493—Attache Case, Black, 16 x 12 x 4
8460–01–385–7294—Briefcase, Black, 17¼″ x 11½″ x 3½
8460–01–391–5837—Briefcase, Forest Service Logo, Green
8465–01–169–3996—Field Pack, Firefighters
Mandatory Source of Supply: Helena Industries, Inc., Helena, MT
Contracting Activity: General Services Administration, Fort Worth, TX
NSN(s)—Product Name(s): 8340–00–951–6423—Kit, Ground Anchor
Mandatory Source of Supply: CW Resources, Inc., New Britain, CT
Contracting Activity: Defense Logistics Agency Troop Support

Service

Service Type: Food Service Attendant Service
Mandatory for:
Pope Air Force Base
Pope Air Force Base, NC
Mandatory Source of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: Dept of the Air Force, FA4488 43 CONS LGC

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–14033 Filed 6–28–18; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2018–OS–0018]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 30, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Appointment of Chaplains for the Military Services; DD Form 2088; OMB Control Number 0704–0190.

Type of Request: Reinstatement, with change.

Number of Respondents: 150.

Responses per Respondent: 10.

Annual Responses: 1,500.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 1,125.

Needs and Uses: This information collection is necessary to provide certification that a Religious Ministry Professional is professionally qualified to become a chaplain.

Affected Public: Not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Requests for copies of the information collection proposal should be sent to Mr. Licari at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 25, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–13968 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2018–OS–0020]

Submission for OMB Review; Comment Request

AGENCY: Office of the Chief Information Officer, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 30, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Basic Employee and Security Tracking Systems (BEAST); OMB Control Number 0704–0507.

Type of Request: Reinstatement, with change.

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 37.5.

Needs and Uses: The information collection requirement is necessary to obtain, track, and record the personnel security data, training information, and travel history within the White House Military Office (WHMO) and White House Communications Agency (WHCA).

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Requests for copies of the information collection proposal should be sent to Mr. Licari at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 25, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–13963 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2015–OS–0080]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 30, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Child Abuse and Domestic Abuse Incident Reporting System; OMB Control Number 0704–0536.

Type of Request: Reinstatement, with change.

Number of Respondents: 23,143.

Responses per Respondent: 1.

Annual Responses: 23,143.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 17,357.

Needs and Uses: The information collection requirement is necessary to conduct an annual collection and reporting of aggregated data from the Military Departments concerning domestic abuse and child abuse incidents. The data allows the Department to track aggregate trends and develop and promulgate policy to best serve individuals and families at risk and those impacted by domestic abuse and child abuse.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Requests for copies of the information collection proposal should be sent to Mr. Licari at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 25, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–13976 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0040]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 28, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense for Personnel and Readiness (Military Personnel Policy)/Accession Policy, ATTN: LTC Aaron Wellman, 4000 Defense Pentagon, Washington, DC 20301–4000, or call 703–697–7594.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DOD Educational Loan Repayment Program (LRP) Annual Application; DD Form 2475; OMB Control Number 0704–0152.

Needs and Uses: This information provides the Armed Services with the necessary data regarding outstanding student loan(s) of its Service Members. The DD Form 2475 is the method of collecting and verifying Service Member student loan data and enables the Department to pay on the student loan(s) based on the terms outlined in the Service Member's contract. The DD Form 2475 is considered the official request for obtaining payment on Service Member's student loan(s).

Affected Public: Individuals or Households; Business or other for-profit.

Annual Burden Hours: 7,333.

Number of Respondents: 44,000.

Responses per Respondent: 1.

Annual Responses: 44,000.

Average Burden per Response: 10 minutes.

Frequency: On Occasion.

Dated: June 26, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2018–14076 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft NEPA Document for the Upper St. Anthony Falls Lock and Dam, Lower St. Anthony Falls Lock and Dam, and Lock and Dam 1 Disposition Study, Hennepin and Ramsey Counties, Minnesota

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to initiate public scoping and prepare an Environmental Assessment (EA).

SUMMARY: The St. Paul District, Army Corps of Engineers (MVP) is conducting a study regarding the disposition of the Upper St. Anthony Falls Lock and Dam, Lower St. Anthony Falls Lock and Dam, and Lock and Dam 1 located in the Upper Mississippi River, Hennepin and Ramsey Counties, Minnesota. The study will include an environmental assessment and consider opportunities regarding deauthorization and disposal of any or all of the three lock and dam sites. The study will evaluate two primary alternatives: (1) No action; and, (2) deauthorization by Congress of the Federal missions at the sites and disposal according to Federal law. Deauthorization would include portions of the Mississippi River 9-foot navigation channel and the lands and structures associated with each lock and dam site. It is anticipated that a draft report of the integrated Disposition Study and Environmental Assessment (EA) will be available for a 30-day public comment period in the Spring of 2019. The St. Paul District of the Army Corps of Engineers is soliciting public comments on the proposed study, potential interest in future ownership if disposal of the properties is warranted, and substantive issues that should be analyzed in the EA.

DATES:

Scoping Meetings: MVP will hold public scoping meetings at the following times and locations during the scoping period:

- Monday, July 16th from 6:00 p.m. to 8:00 p.m. at the Mill City Museum, 704 South Second Street, Minneapolis, Minnesota 55401.
- Tuesday, July 17th from 6:00 p.m. to 8:00 p.m. at the Highland Park Senior High School Auditorium, 1015 Snelling Avenue South, St. Paul, Minnesota, 55116.

At the scoping meetings, the public is encouraged to submit resource information, and identify topics to be considered in the development of the EA. Written and oral comments will be accepted at each meeting.

Comments: MVP will accept comments received or postmarked on or before August 20, 2018. Any comments that we receive after the closing date may not be considered.

ADDRESSES: Comments may be submitted by one of the following methods:

Email—Written comments should be sent to: *MplsLocksDisposition@usace.army.mil.*

Mail/Courier—Written comments should be sent to: District Engineer, U.S. Army Corps of Engineers St. Paul District, ATTN: Regional Planning and Environment Division North, 180 Fifth Street East, Suite 700, St. Paul, Minnesota 55101–1678.

Comment Card—Comment cards provided as part of the public meetings will be collected at the end of the meeting or can be mailed to the address in the MAIL/COURIER section above.

If submitting comments by email, the following should be included in the subject line or first line of the message: ''USAF, LSAF, L/D 1 Disposition Study Comments''.

FOR FURTHER INFORMATION CONTACT: To have your name added to a mailing list for notices related to the draft report and EA or additional public meetings, submit an email request to *MplsLocksDisposition@usace.army.mil.* General questions about the study may be directed to Nan Bischoff, Project Manager, U.S. Army Corps of Engineers, St. Paul District, 180 Fifth Street East, Suite 700, St. Paul, MN 55101–1678; telephone (651) 290–5426; email: *Nanette.m.bischoff@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The St. Paul District, Army Corps of Engineers (MVP) operates the Upper St. Anthony Falls Lock and Dam (USAF), Lower St. Anthony Falls Lock and Dam (LSAF), and Lock and Dam No. 1 (L/D 1), located on the Mississippi River in Minneapolis and St. Paul, Minnesota. MVP also maintains the navigation channel in proximity to these dams which involves periodic dredging. Section 2010 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), dated 10 June 2014, directed that USAF be closed within one year of the date of enactment of the Act, but did not deauthorize USAF. Prior to the closure of USAF, the three locks operated as a system to support navigation on the upper reaches of the Mississippi River 9-foot navigation channel. With the lock at USAF now closed to navigation, the demand for both commercial and recreational lockage has decreased due to the navigational disconnect in the Mississippi River at USAF. Deauthorization and disposal of one or more of the three sites may be warranted if the sites are deemed to not be fulfilling their authorized purposes. Deauthorization would also preclude maintenance activities of the navigation channel in proximity to these dams. The current authorized purposes are navigation and recreation.

Section 216 of the Flood Control Act of 1970 authorizes the Secretary of the Army to review operations of completed projects, when found advisable due to changed physical, economic, or environmental conditions. Disposition studies are a specific type of Section 216 study with the intent to determine whether a water resources development project operated and maintained by the Corps of Engineers should be deauthorized and the associated real property and Government-owned improvements disposed of. An Initial Appraisal (IA) was conducted by the Corps in 2015 to determine if conditions exist which may warrant further analysis on a completed project as authorized by Section 216. The IA recommended investigation under this authority regarding the future use or disposition of USAF, LSAF, and L/D 1.

The purpose of the Disposition Study is to determine what federal interest exists to retain USAF, LSAF, and/or L/D 1 for its authorized purpose(s) based on an evaluation and comparison of the benefits, costs, and impacts (positive and negative) of continued operation, maintenance, repair, replacement, and rehabilitation, compared to the deauthorization and disposal of the associated real properties. The Disposition Study ends when the final report is transmitted to the Corps of Engineers' Headquarters Office for review and processing of recommendations. Deauthorization would require Congressional Approval.

In accordance with the National Environmental Policy Act of 1969 (NEPA), an Environmental Assessment (EA) for this study is anticipated and will be prepared by MVP. The study will broadly evaluate two primary alternatives: (1) The no action; and, (2) deauthorization by Congress of the Federal navigation-related missions at the sites and disposal of the properties according to Federal law. Deauthorization would include portions of the Mississippi River 9-foot navigation channel associated with each lock and dam site. MVP is soliciting public comments on the scope of the EA and significant issues that should be addressed. MVP will also accept comments related to potential new ownership and management measures.

Two public scoping meetings are planned as discussed in the **DATES** section above. The primary purpose of these meetings is to provide a general understanding of the background of the proposed action and to solicit suggestions and information on the scope of issues to consider in the EA. Written and oral comments will be accepted at the meetings. Comments can also be submitted by the methods listed in the **ADDRESSES** section. Once the draft EA is complete and made available for review, there will be additional opportunity for public comment.

Persons needing reasonable accommodations in order to attend and participate in the public scoping meetings should contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. In order to allow sufficient time to process requests, please make contact no later than one week before the public meeting.

Written comments, including email comments, should be sent to MVP at the address given in the **ADDRESSES** section of this Notice. Comments should be specific and pertain only to the issues relating to the action and the anticipated EA. MVP will include all comments in the project record.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. While you can ask in your comment to have your personal identifying information withheld from public review, MVP cannot guarantee that we will be able to do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public review to the extent consistent with applicable law.

Dated: June 13, 2018.

Terry J. Birkenstock,

Deputy Chief, Regional Planning and Environment Division North.

[FR Doc. 2018–14070 Filed 6–28–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Adopt U.S. Bureau of Reclamation's December 2015 Final Environmental Impact Report/ Environmental Impact Statement/ Environmental Impact Statement, Prepare Corps Record of Decision, and Reimburse the Sponsor for the Upper Truckee River and Marsh Restoration Project, City of South Lake Tahoe, El Dorado County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Sacramento District, intends to adopt the Bureau of Reclamation's (BOR) December 2015 Final Environment Impact Report (FEIR)/Final Environmental Impact Statement (FEIS)/Final Environmental Impact Statement (FEIS) for the Upper Truckee River and Marsh Restoration Project and prepare its own Record of Decision (ROD) after the public review period for this Notice of Intent ends. The Corps will use its Tahoe Section 108 program authorization for participation in the restoration activities by reimbursing the California Tahoe Conservancy (CTC), the local sponsor, for final design, construction, and other applicable activities falling under the authorization. During final design and construction, the Corps will serve as the lead Federal agency for compliance with the National Environmental Policy Act (NEPA), and CTC will serve as the lead agency for compliance with the California Environmental Quality Act (CEQA) during the final design and construction activities if designs need to be modified or the river moves from its current alignment prior to design and construction. In the December 2015 Final EIR/EIS/EIS, the analysis for this ecosystem restoration project evaluated five alternatives to restore aquatic and riparian values and functions on the Upper Truckee River's marsh area near its terminus at Lake Tahoe, South Lake Tahoe in El Dorado County, CA with selection of a preferred alternative to be constructed. The Corps has reviewed the draft and Final EIR/EIS/EIS to ensure that all NEPA requirements have been met.

DATES: Written comments regarding the scope of the Corps adoption of the BOR's FEIR/FEIS/FEIS, preparation of the Corps ROD, and reimbursement to CTC should be received by the Corps on or before July 30, 2018.

ADDRESSES: Send written comments and suggestions to Mr. Mario Parker, Biological Sciences Study Manager, U.S. Army Corps of Engineers, Sacramento District, 1325 J Street, Sacramento, CA 95814, or email him at *mario.g.parker@usace.army.mil,* or telephone (916) 557–6701, or fax (916) 557–7856.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* The Corps in cooperation with the non-Federal sponsor, the CTC, proposes to adopt the BOR's December 2015 FEIR/FEIS/FEIS, prepare its own ROD, and reimburse CTC on the final design and construction of the restoration features at the Upper Truckee River and Marsh Restoration Project in South Lake Tahoe, in Eldorado County, CA. Reimbursement for the construction of the ecosystem restoration project is authorized by the Tahoe 108 program authority, which is Section 108 of the Energy and Water Development Appropriations Act, 2005 (Division C of the Consolidated Appropriations Act, Pub. L. 108–447). The relevant authority from the 2005 Consolidated Appropriations Act excerpted is stated below:

Sec. 108. Lake Tahoe Basin Restoration, Nevada and California. (a) Definition.—In this section, the term ''Lake Tahoe Basin'' means the entire watershed drainage of Lake Tahoe including that portion of the Truckee River 1,000 feet downstream from the United States Bureau of Reclamation dam in Tahoe City, California.

(b) Establishment of Program.—The Secretary [of the Army] may establish a program for providing environmental assistance to non-Federal interests in Lake Tahoe Basin.

(c) Form of Assistance.—Assistance under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in Lake Tahoe Basin, which could include the following:

(1) Urban stormwater conveyance, treatment and related facilities;

(2) watershed planning, science and research;

(3) environmental restoration; and

(4) surface water resource protection and development.

(d) Public Ownership Requirement.—The Secretary [of the Army] may provide assistance for a project under this section only if the project is publicly owned.

(e) Local Cooperation Agreement.—(1) In general.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) Requirements.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) Plan.—Development by the Secretary [of the Army], in consultation with appropriate Federal and State and Regional officials, of appropriate environmental documentation, engineering plans and specifications.

(B) Legal and institutional structures.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) Cost sharing.—

(A) In general.—The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) Credit for design work.—The non-Federal interest shall receive credit for the reasonable costs of planning and design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project.

(C) Land, easements, rights-of-way, and relocations.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(D) Operation and maintenance.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(F) Applicability of Other Federal and State Laws.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(G) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2005, $25,000,000, to remain available until expended.

2. *Alternatives.* The study's Draft 2013 EIR/EIS/EIS evaluated five ecosystem restoration alternatives and selected Alternative 3, the Middle Marsh Corridor (Moderate Recreation Infrastructure), for the restoration element and recreation element of the west side of the Upper Truckee Marsh, as well as Alternative 5 (No Project) for the recreation element of the east side of the Upper Truckee Marsh, as the preferred alternative because it was considered the most environmentally superior, cost-effective, feasible, responsive to public comments, and resilient to potential impacts of climate change.

The selected alternative proposes the most geomorphically appropriate channel configuration, allowing the pilot channel to strategically connect the current river alignment to historic channels and lagoons. The river would form its own pattern and spread over the expanse of the marsh, resulting in substantial benefits to habitats, wildlife, and long-term water quality. However, the preferred alternative could have a long-term, and significant unavoidable impact to fish passage through the project area during low flow periods if channel disconnectivity occurs.

The selected alternative also includes restoration of a portion of a marina, removal of fill placed during development to restore wet meadow, stabilization of streambanks, modification and/or relocation of two existing stormwater discharge locations, and restoration of sand ridges that were graded and leveled. The selected alternative would provide a moderate level of recreation infrastructure along the west side of the Upper Truckee Marsh that would include a modified American with Disabilities Act (ADA)-accessible pedestrian trail to Cove East Beach, viewpoints, and signage.

The preferred alternative would have short-term and interim impacts on water quality from increased turbidity and would have short-term impacts to sensitive habitats and wildlife during construction. It would also have short-term and interim impacts on water quality that could not be avoided because of the strict turbidity criteria used to determine a significant and unavoidable impact and to sensitive habitats and wildlife.

In compliance with NEPA and CEQA, a combination of best management practices and conservation measures would be used and included in the designs to avoid, reduce, and minimize any significant adverse effects on environmental resources that were identified in the December 2015 FEIR/FEIS/FEIS while meeting requirements for various Federal, State, and local statutes. The project is being designed to restore ecosystem values and riparian and fluvial functions that benefit many seasonal and resident fish and wildlife populations including Federally listed species such as the Lahontan cutthroat trout and species of concern such as willow flycatcher and Tahoe yellow-cress.

3. *Scoping Process.*

A. Two public scoping meetings were held on February 27, 2015, at the Inn by the Lake and on March 28, 2015, at the Lake Tahoe Community College Board Room in South Lake Tahoe, CA.

B. CTC will obtain all Federal, State, TRPA, and all other local permits prior to construction.

C. A 30-day review period will be allowed for all interested agencies and individuals to review and comment on the Corps' intention to adopt the BOR's December 2015 FEIR/FEIS/FEIS, preparation of its own ROD, and reimbursement for design and construction of the restoration project. All interested persons are encouraged to respond to this notice and provide a current address if they wish to be contacted about the adoption and reimbursement for construction activities associated with this ecosystem restoration project.

D. In compliance with the Council of Environmental Quality regulations [46 FR 18026] and [40 CFR 1506.3(b)], the BOR's December 2015 Final EIR/EIS/EIS document is recirculated and can be viewed in a link on the Corps website. This environmental document is being re-circulated for procedural purposes. The selected plan remains a combination of Alternative 3, the Middle Marsh Corridor (Moderate Recreation Infrastructure), and Alternative 5 (No Project), as described in detail in the environmental document as the preferred plan. This Notice of Intent informs the reader on what the proposed Federal action is and complies with the National Environmental Policy Act, by allowing the public to provide comments on the Corps intention to adopt the BOR's December 2015 FEIR/FEIS/FEIS, preparation of the Record of Decision, and to reimburse CTC for those activities falling under the Tahoe Section 108 authority.

4. *Availability.* The Corps is publishing this Notice of Intent for 30-day public review and comment beginning on June 29, 2018. To view the

BOR's draft and final environmental documents, go to this web address: *http://www.spk.usace.army.mil/Media/USACE-Project-Public-Notices/.* No supplemental environmental documents for review are anticipated.

Dated: June 14, 2018.

David G. Ray,

Colonel, U.S. Army, District Commander.

[FR Doc. 2018–13670 Filed 6–28–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2018–HQ–0007]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 30, 2018.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Facilities Available for the Construction or Repair of Ships; Standard Form 17; OMB Control Number 0703–0006.

Type of Request: Extension.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 4 hours.

Annual Burden Hours: 800.

Needs and Uses: This information collection is part of a joint effort between the Naval Sea Systems Command (NAVSEA) and the U.S. Maritime Administration (MARAD), to maintain a working data set on active U.S. Shipyards. The information collected is required by the Merchant Start Printed Page 68409 Marine Act of 1936 as amended and is critical in providing both organizations with a comprehensive list of U.S. commercial shipyards and their capabilities and capacities. These shipyards play a crucial role in national defense, the economy and the U.S. transportation infrastructure and as such, are of considerable interest to the U.S. Government. The data collected is used to assess the capabilities and capacities of U.S. commercial shipyards in the areas of ship repair and ship construction. The data is also used to monitor employment numbers for labor forecasting for future build projects as well as providing information on the ability to raise labor to meet national industrial mobilization requirements during times of national emergency. The data collected is the main source of information on these shipyards and is used to these ends.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Requests for copies of the information collection proposal should be sent to Mr. Licari at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 21, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–13771 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities—Center on Early Science, Technology, Engineering, and Math Learning for Young Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for a new award for fiscal year (FY) 2018 for Educational Technology, Media, and Materials for Individuals with Disabilities—Center on Early Science, Technology, Engineering, and Math Learning for Young Children with Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.327G.

DATES:

Applications Available: June 29, 2018.

Deadline for Transmittal of Applications: July 30, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Dawn Ellis, U.S. Department of Education, 400 Maryland Avenue SW, Room 5137, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–6417. Email: *dawn.ellis@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program are to: (1) Improve results for students with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for students with disabilities; (3) provide support for captioning and video description that is

appropriate for use in the classroom; and (4) provide accessible educational materials to students with disabilities in a timely manner.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674(b)(2) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(b) and 1481(d)).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Center on Early Science, Technology, Engineering, and Math Learning for Young Children with Disabilities.

Background

The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation.

As early as infancy, young children start developing and testing hypotheses about how things work. These inquiry-based skills and the quest for understanding form the foundation for early science, technology, engineering, and math (STEM) learning. Research shows that early exposure to STEM learning has positive impacts across developmental domains and can positively impact later learning and academic performance (Duncan et al., 2007; Mantzicopoulos, Patrick, & Samarapungavan, 2008).

Because of these impacts, experts have recommended that early childhood programs intentionally integrate STEM learning into the curricula and that it be considered an essential component of a high-quality early childhood experience (Brenneman, Stevenson-Boyd, & Frede, 2009; National Research Council, 2009). While there have been recent efforts to fund STEM initiatives for early childhood, there has been a lack of focus specifically on how to support STEM learning in infants, toddlers, and preschool children (young children) with disabilities.

This focus is necessary, however, because young children with disabilities often require specialized supports to engage in STEM learning, which can help young children achieve developmental and educational outcomes under Parts C and B of the IDEA. Many STEM activities require children to use fine and gross motor skills to physically engage with objects, have the mobility to participate in experiments, or use different senses to explore how something works. STEM activities also typically require children to ask questions, have focused attention, and solve problems. All of these may pose challenges for some young children with disabilities. Yet the hands-on approach and active engagement needed for STEM learning is an ideal way for young children with disabilities to develop skills and achieve goals within their individualized family service plans (IFSPs) or individualized education programs (IEPs). Identifying best practices in providing STEM learning to young children with disabilities, including through the use of technology, would help maximize the benefits to them.

To ensure that young children with disabilities can engage in and benefit from STEM learning, this priority will fund a cooperative agreement to establish and operate a Center on Early STEM Learning for Young Children with Disabilities (the Center). The Center will assemble a body of knowledge on the practices and supports, including the use of technology, necessary to improve STEM learning for young children with disabilities. The Center will also disseminate these practices and supports to early childhood programs, administrators, providers, families of children with disabilities, and institutions of higher education (IHEs).

This priority is consistent with three priorities from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, which were published in the **Federal Register** on March 2, 2018 (83 FR 9096): Priority 5—Meeting the Unique Needs of Students and Children With Disabilities and/or Those With Unique Gifts and Talents; Priority 6—Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science; and Priority 8—Promoting Effective Instruction in Classrooms and Schools.

Priority

The purpose of this priority is to fund a cooperative agreement to establish and operate a national Center on Early Science, Technology, Engineering, and Mathematics (STEM) Learning, for Young Children with Disabilities to achieve, at a minimum, the following expected outcomes:

(a) Increased body of knowledge of current evidence-based (as defined in this notice) practices (EBPs) for early STEM learning, including early computer science learning for young children with disabilities;

(b) Increased use by early childhood programs, providers, and families of the current EBPs in early STEM learning for young children with disabilities; and

(c) Increased awareness by faculty in IHEs of the current EBPs in early STEM learning for young children with disabilities and increased focus on early STEM learning within programs of study within IHEs.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need in the field for knowledge about early STEM learning for young children with disabilities and their families. To meet this requirement the applicant must—

(i) Demonstrate knowledge of the current and emerging EBPs in early STEM learning for all young children, and specifically around using technology to improve access to early STEM learning for young children with disabilities and their families; and

(ii) Demonstrate knowledge of current educational and policy issues and national initiatives relating to early STEM learning for all young children and their families, and specifically for young children with disabilities and their families;

(2) Address current and emerging capacity needs of early childhood programs, providers, and families to select and implement current EBPs that will improve early STEM learning for young children with disabilities, including using technology to improve their access to early STEM learning activities. To meet this requirement, the applicant must—

(i) Present information and data on the current capacity of early childhood providers to effectively support early STEM learning in young children with disabilities;

(ii) Present information and data on how early STEM learning is included within personnel preparation programs;

(iii) Demonstrate knowledge of the implementation supports (*e.g.,* professional development and training, ongoing consultation and coaching, performance assessments, data systems to support decision-making, administrative supports) that are needed to implement new practices within early childhood programs and services; and

(iv) Demonstrate knowledge of how to educate, engage, and support families of young children with disabilities to implement early STEM learning activities;

(3) Improve the potential for early STEM outcomes for young children with disabilities and indicate the likely magnitude or importance of these outcomes.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for technical assistance (TA) and information;

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(iii) As appropriate, address the needs of young children with disabilities who are Native American or are dual language learners (*i.e.,* English is not the primary language spoken in the home); and

(iv) As appropriate, address the needs of military-connected young children with disabilities;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in this notice) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on practices to support early STEM learning for young children with disabilities and the use of technology to improve access to *e*arly STEM learning for young children with disabilities;

(ii) The current research about adult learning principles and implementation science or improvement science that will inform the proposed products; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on:

(A) EBPs on early STEM learning for young children with disabilities;

(B) Use of technology to improve access to early STEM learning for young children with disabilities;

(C) What young children should know or be able to do in early STEM at different ages;

(D) Integration of early STEM learning into IFSPs under Part C of the IDEA and IEPs under Part B of the IDEA; and

(E) Implementation supports needed for early childhood programs and providers to have the capacity to implement the early STEM learning practices, and educate, engage, and support families of young children with disabilities in implementing opportunities for early STEM learning.

(ii) Its proposed approach to universal, general TA,[1] which must identify the intended recipients of the products and services under this approach and should include, at minimum, activities focused on—

(A) Developing and disseminating resources, materials, and tools for faculty at IHEs to embed current EBPs on early STEM learning for young children with disabilities within personnel preparation programs of study;

(B) Developing and disseminating resources, materials, and tools for early childhood programs and providers on current EBPs on early STEM learning for young children with disabilities, including: How to incorporate early STEM learning into IFSPs and IEPs to achieve child outcomes identified on the IFSP or IEP; how to use technology to increase opportunities for early STEM learning and deliver instruction or interventions that promote early STEM learning; and how to work with families to help promote early STEM learning with their child; and

(C) Partnering with national professional organizations, foundations, industry and research organizations and centers to disseminate information on how young children with disabilities can be included in broader early STEM research, policies, and practices, including within new curricula and learning materials.

(iii) Its proposed approach to targeted, specialized TA,[2] which must identify the intended recipients, including the type and number of recipients that will receive the products and services under this approach; and

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or

[1] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[2] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIP3),[3] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* prepare evaluation questions about significant program processes and outcomes, develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIP3, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIP3 staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project providers, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project providers, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors, and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of researchers, faculty, early childhood administrators, providers across different types of early childhood programs, families, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, providers-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Three trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Describe how doctoral students or post-doctoral fellows will be engaged in the project to increase the number of future leaders in the field who are knowledgeable about early STEM learning for young children with disabilities, including the use of technology to increase access to early STEM learning; and

(5) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility.

(6) Include, in Appendix A, an assurance that the project will assist OSEP with the transfer of pertinent resources and products and will maintain the continuity of services during the transition at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider

[3] The major tasks of CIP3 are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIP3 are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIP3 does not function as a third-party evaluator.

the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

References

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National Research Council. (2009). *Mathematics learning in early childhood: Paths toward excellence and equity.* Washington, DC: The National Academies Press.

Definitions

The following definitions are from 34 CFR 77.1:

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 2.1 or 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 2.1 or 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 2.1 or 3.0 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $1,450,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2019 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $1,450,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; State lead agencies under Part C of the IDEA; LEAs, including charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application. The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the

application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses;

(ii) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study; and

(iii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework;

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iv) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives; and

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(c) *Quality of the project evaluation (15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and quality of project personnel (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In determining the adequacy of resources and quality of project personnel for the proposed project, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator;

(ii) The qualifications, including relevant training and experience, of key project personnel;

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(iv) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(v) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or

beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities program. These measures are:

- Program Performance Measure #1: The percentage of Educational Technology, Media, and Materials Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services;
- Program Performance Measure #2: The percentage of Educational Technology, Media, and Materials Program products and services judged to

be of high relevance to improving outcomes for infants, toddlers, children and youth with disabilities;

• Program Performance Measure #3: The percentage of Educational Technology, Media, and Materials Program products and services judged to be of useful in improving results for infants, toddler, children and youth with disabilities;

• Program Performance Measure #4.1: The federal cost per unit of accessible educational materials funded by the Educational Technology, Media, and Materials Program;

• Program Performance Measure #4.2: The federal cost per unit of accessible educational materials from the National Instructional Materials Accessibility Center funded by the Educational Technology, Media, and Materials Program; and

• Program Performance Measure #4.3: The federal cost per unit of video description funded by the Educational Technology, Media, and Materials Program.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW, Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**.You may access the official edition of the **Federal Register** and the Code of Federal Regulations 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: June 26, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–14083 Filed 6–28–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0033]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Student Loan Program Deferment Request Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 30, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0033. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 206–06, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ian Foss, 202–377–3681.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Student Loan Program Deferment Request Forms.

OMB Control Number: 1845–0011.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 683,903.

Total Estimated Number of Annual Burden Hours: 109,424.

Abstract: These forms serve as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan), Federal Family Education

Loan (FFEL) and the Federal Perkins Loan (Perkins Loan) Programs may request deferment of repayment on their loans if they meet certain statutory and regulatory criteria. The U.S. Department of Education and other loan holders uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific deferment type being submitted.

Dated: June 26, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–14022 Filed 6–28–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Case Number 2018–003; EERE–2018–BT–WAV–0006]

Notice of Petition for Waiver of LG Electronics USA, Inc. From the Department of Energy Room Air Conditioner Test Procedure and Notice of Grant of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver and grant of an interim waiver, and request for comments.

SUMMARY: This document announces receipt of and publishes a petition for waiver from LG Electronics USA, Inc. (''LG''), which seeks an exemption from the U.S. Department of Energy (''DOE'') test procedure used for determining the efficiency of specified room air conditioner basic models. LG seeks to use an alternate test procedure to address issues involved in testing the basic models identified in its petition. According to LG, the current DOE test procedure for room air conditioners, which provides for testing at full-load performance only, does not take into account the benefits of room air conditioners that use variable-speed compressors (''variable speed air conditioners''), with their part-load performance characteristics, and misrepresents their actual energy consumption. LG requests that it be permitted to test the specified basic models at four rating conditions instead of a single rating condition and to calculate the test unit's weighted-average combined energy efficiency ratio (CEER), which can then be compared to the expected performance of a comparable single-speed room air conditioner across the same four rating conditions. The performance improvement would be applied to the measured performance of the variable-speed room air conditioner when tested under the high-temperature rating condition of the DOE test procedure for room air conditioners to determine the test unit's final rated CEER value. DOE grants LG an interim waiver from the DOE's room air conditioner test procedure for the specified basic models, subject to use of the alternate test procedure as set forth in the Interim Waiver Order. DOE solicits comments, data, and information concerning LG's petition and its suggested alternate test procedure to inform its final decision on LG's waiver request.

DATES: Written comments and information are requested and will be accepted on or before July 30, 2018.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, interested persons may submit comments, identified by case number ''2018–003'', and Docket number ''EERE–2018–BT–WAV–0006,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: LG2018WAV0006@ee.doe.gov.* Include the case number [Case No. 2018–003] in the subject line of the message.
- *Postal Mail:* Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. 2018–003, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Room 6046, Washington, DC 20024. If possible, please submit all items on a ''CD'', in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations*.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *http://www.regulations.gov/docket?D=EERE-2018-BT-WAV-0006.* The docket web page contains simple instruction on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. E-mail: *AS_Waiver_Request@ee.doe.gov*.

Sarah Butler, 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) 586–1777. E-mail: *Sarah.Butler@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes room air conditioners, which are the subject of this document. (42 U.S.C. 6292(a)(2)).

DOE regulations set forth at 10 CFR 430.27 contain provisions that allow any interested person to seek a waiver from test procedure requirements for a particular basic model when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that either (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

[1] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 11–115 (January 12, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

430.27(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 430.27(l). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. LG's Petition for Waiver and Petition for Interim Waiver

On April 6, 2018, LG filed a petition for waiver and a petition for interim waiver from the test procedure applicable to room air conditioners set forth in appendix F. According to LG, the current DOE test procedure for room air conditioners, which provides for testing at full-load performance only (*i.e.,* at a single indoor and high-temperature outdoor operating condition), does not take into account the benefits of variable-speed room air conditioners, with their part-load performance characteristics, and misrepresents their actual energy consumption.[3] Appendix F requires room air conditioners be tested only with full-load performance, in part, as a result of DOE having previously concluded that widespread use of part-load technology in room air conditioners was not likely to be stimulated by the development of a part-load metric. 76 FR 972, 1016 (January 6, 2011).

LG states that variable-speed room air conditioners use frequency controls constantly to adjust the compressor rotation speed to maintain the desired temperature in the home without turning the motor on and off; that the compressor responds automatically to surrounding conditions to operate in the most efficient possible manner; and that this results in both dramatic energy savings and faster cooling compared to a room air conditioner without a variable-speed compressor. LG asserted that this ability to adjust to conditions results in both dramatic energy savings and faster cooling compared to products room air conditioners without variable-speed compressors. LG further stated that variable-speed room air conditioners also have a higher/lower operating range (10 Hz to 120 Hz). LG asserts that because the DOE test procedure does not account for part-load characteristics, the results of the test procedure are not representative of the actual energy consumption of variable-speed room air conditioners.

LG also requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE understands that, absent an interim waiver, the test procedure does not accurately measure the energy consumption of variable-speed room air conditioners, and without waiver relief, the part-load characteristics of the basic models identified in LG's petition would not be captured.

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)). Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, and after consideration of public comments on the petition, DOE will consider setting an alternate test procedure for the equipment identified by LG in a subsequent Decision and Order.

In its petition, LG requests testing the basic models listed in the petition according to the test procedure for room air conditioners prescribed by DOE in appendix F, except that the variable-speed room air conditioner would be tested at four rating conditions instead of a single rating condition. The suggested test conditions are presented in Table III.1.

TABLE III.1—INDOOR AND OUTDOOR INLET AIR TEST CONDITIONS—VARIABLE-SPEED ROOM AIR CONDITIONERS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	Maximum.
Test Condition 2	80	67	92	72.5	Maximum.
Test Condition 3	80	67	87	69	Intermediate.
Test Condition 4	80	67	82	65	Minimum.

Under the suggested test procedure, the test unit's weighted-average combined energy efficiency ratio (CEER) metric is calculated from the individual CEER values obtained at the four rating conditions, with the weighting factors derived from the fractional temperature bin hours for each rating temperature provided in Table 19 of DOE's test

[3] The specific basic models for which the petition applies are room air conditioner basic models LG LW2217IVSM, LG LW1817IVSM, and LG LW1517IVSM. These basic model names were provided by LG in its April 6, 2018 petition.

procedure for central air conditioners (10 CFR part 430, subpart B, appendix M (''appendix M'')). This weighted-average value is adjusted to normalize it against the expected weighted-average CEER under the same four rating conditions of a comparable single-speed room air conditioner that has the same performance as the variable-speed test unit at the 95 degree Fahrenheit (°F) test condition but differing performance at the other rating conditions due to optimization of the refrigeration system efficiency through compressor speed adjustments to better match the cooling load and eliminate cycling losses. This average performance improvement resulting from the implementation of a variable-speed compressor across multiple rating conditions would then be applied to the measured performance of the variable-speed room air conditioner when tested at the 95 °F rating condition according to appendix F to determine the test unit's final rated CEER value. LG states that this approach takes into account performance and efficiency improvements associated with variable-speed room air conditioners as compared to room air conditioners with single-speed compressors and isolates the effects just attributable to the variable speed operation.

IV. Grant of an Interim Waiver

DOE has reviewed the marketing materials, website, and brochure for the specific basic models for which this petition applies. The materials that DOE reviewed support LG's assertion of the part-load characteristics of the variable-speed room air conditioners and that the DOE test procedure may evaluate the basic models in a manner unrepresentative of their true energy consumption characteristics. In particular, the DOE test procedure does not capture the relative efficiency improvements that can be achieved by variable-speed room air conditioners over a range of operating conditions compared to single-speed room air conditioners. In the absence of an alternate test procedure, the CEER values of variable-speed room air conditioners would suggest that such room air conditioners would consume at least as much energy annually as a comparable single-speed room air conditioner, despite the anticipated benefits of improved performance under part-load conditions. Furthermore, DOE has reviewed the alternate procedure suggested by LG, along with additional performance modeling and analysis performed by DOE using rating conditions specified in an industry standard for single-package air conditioning equipment with variable speed compressors, American National Standards Institute (''ANSI'')/Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Standard 210/240:2008, ''Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment.'' Based on this review it appears that the suggested alternate test procedure, with additional specification regarding the required compressor speeds,[4] will allow for a more accurate measurement of efficiency of the specified basic models of variable-speed room air conditioners, while alleviating the testing problems associated with LG's implementation of room air conditioner testing for the basic models specified in its petition. Specifically, the suggested alternate test procedure will produce CEER values for the variable-speed room air conditioners under the DOE test procedure's existing rating condition that will more accurately reflect the average performance improvement associated with variable-speed compressors at differing operating conditions (*i.e.,* optimization of the refrigeration system efficiency through compressor speed adjustments to better match the cooling load and eliminate cycling losses), as compared to the performance changes that comparable single-speed room air conditioners would experience under those same conditions. Consequently, it appears likely that LG's petition for waiver will be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant LG immediate relief pending a determination of the petition for waiver.

For the reasons stated, DOE has granted an interim waiver to LG for the specified room air conditioner basic models in LG's petition.

Therefore, DOE has issued an Order, stating:

[4] DOE derived the specification for determining the intermediate compressor speed from the DOE test procedure provisions for central air conditioners with variable-speed compressors (section 3.2.4.a of appendix M of 10 CFR part 430 subpart B).

(1) LG must test and rate the following room air conditioner basic models with the alternate test procedure set forth in paragraph (2):

(A) LG LW2217IVSM, LG LW1817IVSM, and LG LW1517IVSM

(2) The alternate test procedure for the LG basic models listed in subparagraph (1)(A) is the test procedure for room air conditioners prescribed by DOE at appendix F to subpart B of 10 CFR part 430 (Appendix F), except the combined energy efficiency ratio (CEER) will be determined as detailed below. All other requirements of Appendix F and DOE's regulations remain applicable.

In Section 1, *Definitions,* add:

1.8 ''Single-speed'' means a type of room air conditioner that does not automatically adjust either the compressor or fan speed, or both, based on the detected outdoor conditions.

1.9 ''Variable-speed'' means a type of room air conditioner that can automatically adjust compressor and fan speed, only compressor speed, or only fan speed, based on the detected outdoor conditions.

Add to the end of Section 2.1 *Cooling*:

For a variable-speed room air conditioner, the cooling mode test shall be repeated 3 additional times with alternate outdoor test conditions, as described in section 3.1 of this appendix. For a variable-speed room air conditioner, a psychrometric chamber may alternatively be used in accordance with ANSI/ASHRAE Standard 37–2009 (incorporated by reference; see § 430.3), in place of a calorimeter chamber, which is required in accordance with appendix F. If using the psychrometric chamber approach, set-up and instrument the variable-speed room air conditioner in accordance with Section 5 and Section 6 of ANSI/ASHRAE Standard 37–2009, measure the indoor cooling capacity in accordance with Section 7.3 of ANSI/ASHRAE Standard 37–2009, and measure the average electrical input power in Watts at the nameplate voltage for each of the rating test condition.

Add to the end of Section 3.1, *Cooling mode:*

However, for variable-speed room air conditioners, the set of four cooling mode tests shall be conducted with the following test conditions, presented in Table 1 of this appendix.

TABLE 1—INDOOR AND OUTDOOR INLET AIR TEST CONDITIONS—VARIABLE-SPEED ROOM AIR CONDITIONERS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	Maximum.
Test Condition 2	80	67	92	72.5	Maximum.
Test Condition 3	80	67	87	69	Intermediate.
Test Condition 4	80	67	82	65	Minimum.

Determine the intermediate compressor speed cited in Table 1 using:

$$Intermediate\ Speed = Minimum\ Speed + \frac{Maximum\ Speed - Minimum\ Speed}{3}$$

where a tolerance of plus 5 percent or the next higher inverter frequency step from that calculated is allowed.

Add to the end of Section 4.1, *Cooling mode*:

If using the psychrometric chamber approach for a variable-speed room air conditioner, measure the indoor cooling capacity in accordance with Section 7.3 of ANSI/ASHRAE Standard 37–2009 and measured power input in cooling mode in accordance with Section 5.4 of ANSI/ASHRAE Standard 37–2009.

Add to the end of Section 5.1:

For variable-speed room air conditioners, determine cooling capacity, $Capacity_m$, for each of the four cooling mode rating test conditions. Notwithstanding the requirements of § 430.23(f), the cooling capacity used in § 430.23(f) and reported in § 429.15(b)(2) shall be the cooling capacity determined for test condition 1 in Table 1 of this appendix.

Add to the end of Section 5.2:

For variable-speed room air conditioners, determine electrical power input, P_m, for each of the four cooling mode rating test conditions. Notwithstanding the requirements of § 430.23(f), the electrical power input used in § 430.23(f) and reported in § 429.15(b)(2) shall be the value measured for test condition 1 in Table 1 of this appendix.

Add following Section 5.3, *Standby mode and off mode annual energy consumption*:

5.4 *Variable-speed room air conditioner combined energy efficiency ratio.* Calculate the combined energy efficiency ratio for variable-speed room air conditioners as follows, which shall be the combined energy efficiency ratio reported in § 429.15(b)(2) for variable-speed room air conditioners.

5.4.1 *Comparable single-speed room air conditioner.* Calculate the cooling capacity, expressed in British thermal units per hour (Btu/h), and electrical power input, expressed in watts, for a comparable single-speed room air conditioner at all cooling mode test conditions. A comparable single-speed room air conditioner has the same cooling capacity and electrical power input, with no cycling losses, as the variable-speed room air conditioner under test at test condition 1 in Table 1.

$Capacity_{SS\_m} = Capacity_{95} \times (1 + (M_c \times (T_{95} - T_m)))$

$P_{SS\_m} = P_{95} \times (1 - (M_p \times (T_{95} - T_m)))$

Where:

$Capacity_{SS\_m}$ = comparable single-speed room air conditioner cooling capacity, in Btu/h, calculated for each of the cooling mode test conditions in Table 1.

$Capacity_{95}$ = variable-speed room air conditioner cooling capacity, in Btu/h, determined in section 5.1 of this appendix for test condition 1 in Table 1.

P_{SS_m} = comparable single-speed room air conditioner electrical power input, in watts, calculated for each of the cooling mode test conditions in Table 1.

P_{95} = variable-speed room air conditioner electrical power input, in watts, determined in section 5.2 of this appendix for test condition 1 in Table 1.

M_c = adjustment factor to determine the increased capacity at lower outdoor test conditions, 0.0099.

M_p = adjustment factor to determine the reduced electrical power input at lower outdoor test conditions, 0.0076.

T_{95} = outdoor dry-bulb temperature for test condition 1 in Table 1, 95 °F.

T_m = outdoor dry-bulb temperature for each of the test conditions in Table 1.

m represents the cooling mode test condition (''95'' test condition 1 (95 °F), ''92'' test condition 2 (92 °F), ''87'' test condition 3 (87 °F), and ''82'' test condition 4 (82 °F)).

5.4.2 *Variable-speed annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for cooling mode under each test condition, AEC_m, expressed in kilowatt-hours per year (kWh/year).

$AEC_m = P_m \times t \times k$

Where:

AEC_m = variable-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1.

P_m = electrical power input, in watts, in cooling mode for each test condition in Table 1.

m as defined in section 5.4.1 of this appendix.

t = number of annual operating hours in cooling mode, 750.

k = 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours.

5.4.3 *Comparable single-speed room air conditioner annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for a comparable single-speed room air conditioner for cooling mode under each test condition, AEC_{SS_m}, expressed in kWh/year.

$AEC_{SS\_m} = P_{SS\_m} \times t \times k$

Where:

AEC_{SS_m} = comparable single-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1.

P_{SS_m} = comparable single-speed room air conditioner electrical power input, in watts, in cooling mode for each test condition in Table 1, determined in section 5.4.1 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.4 *Variable-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the variable-speed room air conditioner combined energy

efficiency ratio, $CEER_m$, for each test condition, expressed in Btu/Wh.

$$CEER_m = \frac{Capacity_m}{\left(\frac{AEC_m + E_{TSO}}{k \times t}\right)}$$

Where:

$CEER_m$ = variable-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$Capacity_m$ = variable-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1, determined in section 5.1 of this appendix.

AEC_m = variable-speed room air conditioner annual energy consumption, in kWh/yr, in cooling mode for each test condition in Table 1, determined in section 5.4.2 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, determined in section 5.3 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.5 *Comparable single-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the combined energy efficiency ratio for a comparable single-speed room air conditioner, $CEER_{SS\_m}$, for each test condition, expressed in Btu/Wh.

$$CEER_{SS\_m} = \frac{Capacity_{SS\_m}}{\left(\frac{AEC_{SS\_m} + E_{TSO}}{k \times t}\right)}$$

Where:

$CEER_{SS\_m}$ = comparable single-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$Capacity_{SS\_m}$ = comparable single-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1, in Btu/h, determined in section 5.4.1 of this appendix.

AEC_{SS_m} = comparable single-speed room air conditioner annual energy consumption for each test condition in Table 1, in kWh/year, determined in section 5.4.3 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, determined in section 5.3 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.6 *Comparable single-speed room air conditioner adjusted combined energy efficiency ratio for each cooling mode test condition.* Calculate the adjusted combined energy efficiency ratio for a comparable single-speed room air conditioner, $CEER_{SS\_m\_adj}$, with cycling losses considered, expressed in Btu/Wh.

$$CEER_{SS\_m\_adj} = CEER_{SS\_m} \times CLF_m$$

Where:

$CEER_{SS\_m\_adj}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$CEER_{SS\_m}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1, determined in section 5.4.5 of this appendix.

CLF_m = cycling loss factor for each cooling mode test condition, 1 for test condition 1, 0.971 for test condition 2, 0.923 for test condition 3, and 0.875 for test condition 4.

m as defined in section 5.4.1 of this appendix.

5.4.7 *Weighted combined energy efficiency ratio.* Calculate the weighted combined energy efficiency ratio for the variable-speed room air conditioner, $CEER_{wt,}$ and comparable single-speed room air conditioner, $CEER_{SS\_wt}$, expressed in Btu/Wh.

$$CEER_{wt} = \sum_m CEER_m \times W_m$$

$$CEER_{SS\_wt} = \sum_m CEER_{SS\_m\_adj} \times W_m$$

Where:

$CEER_{wt}$ = variable-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{SS\_wt}$ = comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_m$ = variable-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1, determined in section 5.4.4 of this appendix.

$CEER_{SS\_m\_adj}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1, determined in section 5.4.6 of this appendix.

W_m = weighting factors for each cooling mode test condition, 0.05 for test condition 1, 0.16 for test condition 2, 0.31 for test condition 3, and 0.48 for test condition 4.

m as defined in section 5.4.1 of this appendix.

5.4.8 *Variable-speed room air conditioner performance adjustment factor.* Calculate the variable-speed room air conditioner performance adjustment factor, $F_{p.}$

$$F_p = \frac{\left(CEER_{wt} - CEER_{SS\_wt}\right)}{CEER_{SS\_wt}}$$

Where:

F_p = variable-speed room air conditioner performance adjustment factor.

$CEER_{wt}$ = variable-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.4.7 of this appendix.

$CEER_{SS\_wt}$ = comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.4.7 of this appendix

5.4.9 *Variable-speed room air conditioner CEER.* For variable-speed room air conditioners, multiply the combined energy efficiency ratio, CEER, expressed in Btu/Wh, determined in § 430.23(f) by $(1 + F_p)$ to obtain the final CEER for variable speed room air conditioners.

Where:

F_P = variable-speed room air conditioner performance adjustment factor, determined in section 5.4.8 of this appendix.''

(3) *Representations.* LG may not make representations about the energy efficiency of the basic models identified in paragraph (1) for compliance, marketing, or other purposes unless the basic models have been tested in accordance with the provisions in the alternate test procedure and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.15(a).

(4) This interim waiver shall remain in effect according to the provisions of 10 CFR 430.27.

(5) This interim waiver is issued to LG on the condition that the statements, representations, and information provided by LG are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, LG may request that DOE rescind or modify the interim waiver if LG discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Granting of this interim waiver does not release LG from the certification requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. LG may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of room air conditioners. Alternatively, if appropriate, LG may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic models set forth in the original petition consistent with 10 CFR 430.27(g).

V. Request for Comments

DOE is publishing LG's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv).[5] The petition includes a suggested alternate test procedure, as specified in the petition and summarized in section III of this document, to determine the efficiency of LG's specified room air conditioners. DOE may consider including the alternate procedure specified in the Interim Waiver Order, specified in section IV of this document, in a subsequent Decision and Order.

DOE invites all interested parties to submit in writing by July 30, 2018, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Scott Blake Harris, Harris, Wiltshire & Grannis LLP, 1919 M Street NW, Eighth Floor, Washington, DC 20036.

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

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Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on

[5] The petition did not identify any of the information contained therein as confidential business information.

a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on June 22, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Before the United States, Department of Energy, Washington, D.C. 20585

In the Matter of:

Energy Efficiency Program: Test Procedure for Room Air Conditioners

Petition of LG Electronics, Inc. for Waiver and Application for *Interim Waiver of Test Procedure for Room Air Conditioners*

LG Electronics, Inc. (LG) respectfully submits this Petition for Waiver and Application for Interim Waiver [1] from DOE's test procedure for room air conditioners (RACs). LG seeks a waiver because the current test procedure does not accurately measure the energy consumption of RACs with variable speed compressors (VSCs). LG requests expedited treatment of the Petition and Application.

LG is a manufacturer of room air conditioners and other products sold worldwide, including in the United States. LG's United States affiliate is LG Electronics USA, Inc., with headquarters at 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632 (tel. 201–816–2000). Its worldwide headquarters are located at LG Twin Towers 20, Yoido-dong, Youngdungpo-gu Seoul, Korea 150–721; (tel. 011–82–2–3777–1114); *URL: http.www.LGE.com.*

I. *Basic Models for Which a Waiver is Requested*

The basic models for which a waiver is requested are set forth in the Appendix. They are distributed in commerce under the LG brand name.

II. *Need for the Requested Waiver*

The LG RACs with VSC technology are advanced, energy efficient products. A VSC (inverter compressor) uses frequency controls constantly to adjust the compressor's rotation speed to maintain the desired temperature in the home without turning the motor on and off. The compressor responds automatically to surrounding conditions to operate in the most efficient possible manner. This results in both dramatic energy savings and faster cooling compared to products without VSCs. RACs with VSCs also have a higher/lower operating range (10Hz to 120Hz) than those without VSC.[2]

Unfortunately, the current DOE test procedure for RACs provides that they be tested only with full-load performance.[3] Thus, the RAC test procedure does not take into account the benefits of VSC, with its part-load performance characteristics. This is unlike the DOE test procedure for central air conditioners, which provides for testing with part-load performance for VSCs.

DOE has recognized this serious shortcoming in its RAC test procedure. It has stated that this test procedure ''does not measure the benefits of technologies that improve part-load performance.'' [4]

> The current room AC test procedure measures only the full-load performance at outdoor ambient conditions of 95 °F dry-bulb and 75 °F wet-bulb. Therefore, technologies that improve part-load performance, such as multiple-speed compressors and variable-opening expansion devices, will not improve the rated performance of a room AC under the current test procedure.'' [5]

Indeed, DOE has correctly stressed that, ''[i]n contrast, central ACs and heat pumps are rated using multiple rating points at different conditions.'' [6] Finally, DOE has said it intends to investigate potential revision of the test procedure ''to account for any benefits of technologies that improve part-load performance.'' [7]

At the moment, however, the DOE test procedure for RACs does not include any provision to account for the benefits of the part-load performance of VSCs. Therefore, the test procedure evaluates the LG models with VSCs in a manner that misrepresents their actual energy consumption. LG urges that a waiver be granted, for the basic models in the Appendix, that will allow use of the alternate test procedure discussed below. The test procedure is designed to take into account the energy savings characteristics of VSCs, and will yield results more representative of the actual energy consumption of these products than the current DOE test procedure. And the rules provide that DOE ''will grant a waiver from the test procedure requirements'' in these circumstances.[8] The waiver should continue until DOE adopts an applicable amended test procedure.

III. *Proposed Alternate Test Procedure*

LG proposes the following alternate test procedure to evaluate the performance of the basic models listed in the Appendix. The alternate test procedure is the same as the existing test procedure for RACs except that it takes into account VSC part-load characteristics. It does so by providing for tests at a variety of load conditions. Specifically:

LG shall be required to test the performance of the basic models listed in the Appendix hereto according to the test procedure for room air conditioners in 10 C.F.R. Part 430, Subpart B, Appendix F, except as follows:

Add new Sections 1.8 and 1.9 to Appendix F as follows:

''1.8 ''Single-speed'' means a type of room air conditioner that does not automatically adjust either the compressor or fan speed, or both, based on the detected outdoor conditions.

1.9 ''Variable-speed'' means a type of room air conditioner that can automatically adjust compressor and fan speed, only compressor speed, or only fan speed, based on the detected outdoor conditions.''

Add the following at the end of Section 2.1 of Appendix F:

''For a variable-speed room air conditioner, the cooling mode test shall

[1] See 10 C.F.R. § 430.27 (petitions for waiver and interim waiver).

[2] To the best of LG's knowledge, LG is the only manufacturer of RAC basic models distributed in commerce in the United States to incorporate design characteristic(s) similar to those found in the basic models that are the subject of this petition, namely, RAC VSC technology.

[3] 10 C.F.R. Part 430, Subpart B, Appendix F.

[4] 80 Fed. Reg. 34843, 34848 (June 18, 2015).

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] 10 C.F.R. § 430.27(f)(2).

be repeated 3 additional times with alternate outdoor test conditions, as described in section 3.1 of this appendix. For a variable-speed room air conditioner, a psychrometric chamber may alternatively be used in place of a calorimeter chamber, in accordance with ANSI/ASHRAE Standard 37–2009 (incorporated by reference; see § 430.3). If using the psychrometric chamber approach, set-up and instrument the variable-speed room air conditioner in accordance with Section 5 and Section 6 of ANSI/ASHRAE Standard 37–2009, measure the indoor cooling capacity in accordance with Section 7.3 of ANSI/ASHRAE Standard 37–2009, and measure the average electrical input power in Watts at the nameplate voltage for each of the rating test condition.''

Add the following at the end of Section 3.1 of Appendix F:

'', except, for variable-speed room air conditioners, the set of four cooling mode tests shall be conducted with the following test conditions, presented in Table 1 of this appendix.

TABLE 1—INDOOR AND OUTDOOR INLET AIR TEST CONDITIONS—VARIABLE-SPEED ROOM AIR CONDITIONERS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	Maximum.
Test Condition 2	80	67	92	72.5	Maximum.
Test Condition 3	80	67	87	69	Intermediate.
Test Condition 4	80	67	82	65	Minimum.

Add the following at the end of Section 4.1 of Appendix F:

''If using the psychrometric chamber approach for a variable-speed room air conditioner, measure the indoor cooling capacity in accordance with Section 7.3 of ANSI/ASHRAE Standard 37–2009 and measured power input in cooling mode in accordance with Section 5.4 of ANSI/ASHRAE Standard 37–2009.''

Add the following at the end of Section 5.1 of Appendix F:

''For variable-speed room air conditioners, determine cooling capacity, $Capacity_m$, for each of the four cooling mode rating test conditions. The cooling capacity used in § 430.23(f) and reported in § 429.15(b)(2) shall be the cooling capacity determined for test condition 1 in Table 1 of this appendix.

Add the following at the end of Section 5.2 of Appendix F:

''For variable-speed room air conditioners, determine electrical power input, P_m, for each of the four cooling mode rating test conditions, and the electrical power input used in § 430.23(f) shall be the value measured for test condition 1 in Table 1 of this appendix.''

Add the following after Section 5.3 of Appendix F:

''5.4 *Variable-speed room air conditioner combined energy efficiency ratio.* Calculate the combined energy efficiency ratio for variable-speed room air conditioners as follows, which shall be the combined energy efficiency ratio reported in § 429.15(b)(2) for variable-speed room air conditioners.

5.4.1 *Comparable single-speed room air conditioner.* Calculate the cooling capacity, expressed in British thermal units per hour (Btu/h), and electrical power input, expressed in watts, for a comparable single-speed room air conditioner at all cooling mode test conditions.

$$Capacity_{SS\_m} = Capacity_{95} \times (1 + (M_c \times (T_{95} - T_m)))$$

$$P_{SS\_m} = P_{95} \times (1—(M_p \times (T_{95}—T_m)))$$

Where:

$Capacity_{SS\_m}$ = comparable single-speed room air conditioner cooling capacity, in Btu/h, calculated for each of the cooling mode test conditions in Table 1.

$Capacity_{95}$ = variable-speed room air conditioner cooling capacity, in Btu/h, determined in section 5.1 of this appendix for test condition 1 in Table 1.

P_{SS_m} = comparable single-speed room air conditioner electrical power input, in watts, calculated for each of the cooling mode test conditions in Table 1.

P_{95} = variable-speed room air conditioner electrical power input, in watts, determined in section 5.2 of this appendix for test condition 1 in Table 1.

M_c = adjustment factor to determine the increased capacity at lower outdoor test conditions, 0.0099.

M_p = adjustment factor to determine the reduced electrical power input at lower outdoor test conditions, 0.0076.

T_{95} = outdoor dry-bulb temperature for test condition 1 in Table 1, 95 °F.

T_m = outdoor dry-bulb temperature for each of the test conditions in Table 1.

m represents the cooling mode test condition (''95'' test condition 1 (95 °F), ''92'' test condition 2 (92 °F), ''87'' test condition 3 (87 °F), and ''82'' test condition 4 (82 °F)).

5.4.2 *Variable-speed annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for cooling mode under each test condition, AEC_m, expressed in kilowatt-hours per year (kWh/year).

$$AEC_m = P_m \times t \times k$$

Where:

AEC_m = variable-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1.

P_m = electrical power input, in watts, in cooling mode for each test condition in Table 1.

m as defined in section 5.4.1 of this appendix.

t = number of annual operating hours in cooling mode, 750.

k = 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours.

5.4.3 *Comparable single-speed room air conditioner annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for a comparable single-speed room air conditioner for cooling mode under each test condition, AEC_{SS_m}, expressed in kWh/year.

$$AEC_{ss\_m} \times t \times k$$

Where:

AEC_{SS_m} = comparable single-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1.

P_{SS_m} = comparable single-speed room air conditioner electrical power input, in watts, in cooling mode for each test condition in Table 1, determined in section 5.4.1 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.4 *Variable-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the variable-speed room air conditioner combined energy efficiency ratio, $CEER_m$, for each test condition, expressed in Btu/Wh.

$$CEER_m = \frac{Capacity_m}{\left(\frac{AEC_m + E_{TSO}}{k \times t}\right)}$$

Where:

$CEER_m$ = variable-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$Capacity_m$ = variable-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1, determined in section 5.1 of this appendix.

AEC_m = variable-speed room air conditioner annual energy consumption, in kWh/yr, in cooling mode for each test condition in Table 1, determined in section 5.4.2 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, determined in section 5.3 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.5 *Comparable single-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the combined energy efficiency ratio for a comparable single-speed room air conditioner, $CEER_{SS\_m}$, for each test condition, expressed in Btu/Wh.

$$CEER_{SS\_m} = \frac{Capacity_{SS\_m}}{\left(\frac{AEC_{SS\_m} + E_{TSO}}{k \times t}\right)}$$

Where:

$CEER_{SS\_m}$ = comparable single-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$Capacity_{SS\_m}$ = comparable single-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1, in Btu/h, determined in section 5.4.1 of this appendix.

AEC_{SS_m} = comparable single-speed room air conditioner annual energy consumption for each test condition in Table 1, in kWh/year, determined in section 5.4.3 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, determined in section 5.3 of this appendix.

m as defined in section 5.4.1 of this appendix.

t and k as defined in section 5.4.2 of this appendix.

5.4.6 *Comparable single-speed room air conditioner adjusted combined energy efficiency ratio for each cooling mode test condition.* Calculate the adjusted combined energy efficiency ratio for a comparable single-speed room air conditioner, $CEER_{SS\_m\_adj}$, with cycling losses considered, expressed in Btu/Wh.

$CEER_{SS\_m\_adj} = CEER_{SS\_m} \times CLF_m$

Where:

$CEER_{SS\_m\_adj}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1.

$CEER_{SS\_m}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1, determined in section 5.4.5 of this appendix.

CLF_m = cycling loss factor for each cooling mode test condition, 1 for test condition 1, 0.971 for test condition 2, 0.923 for test condition 3, and 0.875 for test condition 4.

m as defined in section 5.4.1 of this appendix.

5.4.7 *Weighted combined energy efficiency ratio.* Calculate the weighted combined energy efficiency ratio for the variable-speed room air conditioner, $CEER_{wt}$, and comparable single-speed room air conditioner, $CEER_{SS\_wt}$, expressed in Btu/Wh.

$$CEER_{wt} = \sum_m CEER_m \times W_m$$

$$CEER_{SS\_wt} = \sum_m CEER_{SS\_m\_adj} \times W_m$$

Where:

$CEER_{wt}$ = variable-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{SS\_wt}$ = comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_m$ = variable-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1, determined in section 5.4.4 of this appendix.

$CEER_{SS\_m\_adj}$ = comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1, determined in section 5.4.6 of this appendix.

W_m = weighting factors for each cooling mode test condition, 0.05 for test condition 1, 0.16 for test condition 2, 0.31 for test condition 3, and 0.48 for test condition 4.

m as defined in section 5.4.1 of this appendix.

5.4.8 *Variable-speed room air conditioner performance adjustment factor.* Calculate the variable-speed room air conditioner performance adjustment factor, F_p.

$$F_p = \frac{\left(CEER_{wt} - CEER_{SS\_wt}\right)}{CEER_{SS\_wt}}$$

Where:

F_p = variable-speed room air conditioner performance adjustment factor.

$CEER_{wt}$ = variable-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.4.7 of this appendix.

$CEER_{SS\_wt}$ = comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.4.7 of this appendix

5.4.9 *Variable-speed room air conditioner CEER.* For variable-speed room air conditioners, multiply the combined energy efficiency ratio, CEER, expressed in Btu/Wh, determined in § 430.23(f) by $(1 + F_p)$ to obtain the final CEER for variable speed room air conditioners.

Where:

F_p = variable-speed room air conditioner performance adjustment factor, determined in section 5.4.8 of this appendix.''

IV. *Application for Interim Waiver*

LG also hereby applies for an interim waiver of the applicable test procedure requirements for the LG basic models set forth in the Appendix. LG meets the criteria for an interim waiver.

LG's Petition for Waiver is likely to be granted because the test method contained in 10 C.F.R. Part 430, Subpart B, Appendix F clearly does not address the VSC characteristics of these LG basic models. Thus, the test procedure does not accurately measure their energy consumption. Without waiver relief, LG would be subject to requirements that are inapplicable to these products. Additionally, LG will suffer economic hardship and be at a competitive disadvantage if it must wait to rate these basic models pending a determination on the petition for waiver.

DOE approval of LG's interim waiver application is also supported by sound public policy. These LG products employ advanced technology that increases efficiency and reduces energy consumption, while offering a new level of affordable comfort to consumers.

V. *Conclusion*

LG respectfully requests that DOE grant its Petition for Waiver of the applicable test procedure for specified basic models, and also grant its Application for Interim Waiver.

LG requests expedited treatment of the Petition and Application.

Respectfully submitted,
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Counsel to LG Electronics USA, Inc.
April 6, 2018

Appendix

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models that are manufactured by LG:

LW2217IVSM
LW1817IVSM
LW1517IVSM

[FR Doc. 2018–14030 Filed 6–28–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–6627–002]

Vigue, Peter A.; Notice of Supplemental Filing

Take notice that on June 22, 2018, Peter A. Vigue filed supplements to the April 24, 2018 and May 11, 2018 applications for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 18 U.S.C. 825d(f), and section 45.4 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR 45.8.

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 13, 2018.

Dated: June 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–13960 Filed 6–28–18; 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: EC18–107–000.
Applicants: New Covert Generating Company, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of New Covert Generating Company, LLC.
Filed Date: 6/21/18.
Accession Number: 20180621–5121.
Comments Due: 5 p.m. ET 7/12/18.

Docket Numbers: EC18–108–000.
Applicants: Red Pine Wind Project, LLC, PGGM Cooperatie U.A.
Description: Joint Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Red Pine Wind Project, LLC.
Filed Date: 6/22/18.
Accession Number: 20180622–5065.
Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: EC18–109–000.
Applicants: Rock Falls Wind Farm LLC, PGGM Cooperatie U.A.
Description: Joint Application for Authorization for Disposition of Jurisdictional Facilities and Request for Confidential Treatment and Expedited Action of Rock Falls Wind Farm LLC, et. al.
Filed Date: 6/22/18.
Accession Number: 20180622–5067.
Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: EC18–110–000.
Applicants: Playa Solar 1, LLC, Playa Solar 2, LLC, PGGM Cooperatie U.A.
Description: Joint Application for Authorization for Disposition of Jurisdictional Facilities, and Request for Confidential Treatment and Expedited Action of Playa Solar 1, LLC, et. al.
Filed Date: 6/22/18.
Accession Number: 20180622–5069.
Comments Due: 5 p.m. ET 7/13/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2739–022; ER14–1219–009; ER16–1732–008; ER17–993–007; ER18–95–004; ER10–2729–009; ER17–989–007; ER10–1892–009; ER10–1854–014; ER17–990–007; ER17–1946–007; ER17–991–007; ER16–1652–010; ER11–3320–014; ER10–2744–015; ER16–2406–008; ER16–2405–008; ER13–2316–012; ER17–992–007; ER10–2678–015; ER10–1631–014; ER14–19–013.

Applicants: LS Power Marketing, LLC, Armstrong Power, LLC, Aurora Generation, LLC, Bath County Energy, LLC, Buchanan Energy Services Company, LLC, Buchanan Generation, LLC, Chambersburg Energy, LLC, Columbia Energy LLC, Doswell Limited Partnership, Gans Energy, LLC, Helix Ironwood, LLC, Hunlock Energy, LLC, LifeEnergy, LLC, LSP University Park, LLC, Riverside Generating Company, L.L.C., Rockford Power, LLC, Rockford Power II, LLC, Seneca Generation, LLC, Springdale Energy, LLC, Troy Energy, LLC, University Park Energy, LLC, West Deptford Energy, LLC.

Description: Notification of Change in Status of the LS PJM MBR Sellers.

Filed Date: 6/22/18.

Accession Number: 20180622–5133.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER16–1226–001.

Applicants: New Covert Generating Company, LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT to be effective N/A.

Filed Date: 6/22/18.

Accession Number: 20180622–5081.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER17–424–004.

Applicants: Footprint Power Salem Harbor Development LP.

Description: Notice of Non-Material Change in Status of Footprint Power Salem Harbor Development LP.

Filed Date: 6/22/18.

Accession Number: 20180622–5115.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–784–002.

Applicants: Upstream Wind Energy LLC.

Description: Notification of Change in Facts Under Market-Based Rate Authority of Upstream Wind Energy LLC.

Filed Date: 6/22/18.

Accession Number: 20180622–5109.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–954–002.

Applicants: Appalachian Power Company.

Description: Tariff Amendment: OATT-Attachment K, AEPTX Rate Update—Amendment to be effective 12/31/9998.

Filed Date: 6/22/18.

Accession Number: 20180622–5141.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1701–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 1628R12 Western Farmers Electric Cooperative NITSA NOA to be effective 5/1/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5113.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1813–000.

Applicants: Power Up Energy, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Tariff Application to be effective 6/22/2018.

Filed Date: 6/21/18.

Accession Number: 20180621–5112.

Comments Due: 5 p.m. ET 7/12/18.

Docket Numbers: ER18–1814–000.

Applicants: El Paso Electric Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 114 Agreement on Interconnection Study Costs to be effective 8/20/2018.

Filed Date: 6/21/18.

Accession Number: 20180621–5114.

Comments Due: 5 p.m. ET 7/12/18.

Docket Numbers: ER18–1815–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ISA SA No. 4226; Queue No. V1–012 to be effective 6/15/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5044.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1816–000.

Applicants: Midwest Power Transmission Arkansas, LLC.

Description: Compliance filing: Compliance Filing Docket No. E18–14 to be effective 10/26/2017.

Filed Date: 6/22/18.

Accession Number: 20180622–5052.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1817–000.

Applicants: New York Transco, LLC.

Description: Petition of New York Transco LLC for Limited Waiver of Tariff Provisions, et al.

Filed Date: 6/22/18.

Accession Number: 20180622–5072.

Comments Due: 5 p.m. ET 7/2/18.

Docket Numbers: ER18–1818–000.

Applicants: Portland General Electric Company.

Description: § 205(d) Rate Filing: Attachment C Filing to be effective 6/25/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5080.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1819–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–06–22 SA 3122 Pioneer-NIPSCO Interconnection Agreement to be effective 6/20/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5085.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1820–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5106; Queue No. AB2–043 to be effective 5/23/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5107.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1821–000.

Applicants: Walleye Power, LLC.

Description: Compliance filing: Notice of Succession to be effective 6/23/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5127.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1822–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2018–06–22 Amendment to TCA to add Citizens Sycamore-Penasquitos as PTO to be effective 8/31/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5128.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1823–000.

Applicants: Walleye Power, LLC.

Description: Compliance filing: Notice of Succession to be effective 12/31/9998.

Filed Date: 6/22/18.

Accession Number: 20180622–5134.

Comments Due: 5 p.m. ET 7/13/18.

Docket Numbers: ER18–1824–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: Revised and Restated Prescott PSA to be effective 5/31/2018.

Filed Date: 6/22/18.

Accession Number: 20180622–5142.

Comments Due: 5 p.m. ET 7/13/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–42–000.

Applicants: Indianapolis Power & Light Company.

Description: Application of Indianapolis Power & Light Company under Section 204 of the Federal Power Act for Order Authorizing Issuance of Short-Term Debt Instruments.

Filed Date: 6/21/18.

Accession Number: 20180621–5120.

Comments Due: 5 p.m. ET 7/12/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–13957 Filed 6–28–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–550–000, CP15–551–000, and CP15–551–001]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Calcasieu Pass Project; Venture Global Calcasieu Pass, LLC, TransCameron Pipeline, LLC

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Calcasieu Pass Project, proposed by Venture Global Calcasieu Pass, LLC (Venture Global Calcasieu Pass) and TransCameron Pipeline, LLC (TransCameron Pipeline) in the above-referenced dockets. Venture Global Calcasieu Pass requests authorization to site, construct, and operate a natural gas liquefaction and storage facility, and marine export terminal in Cameron Parish, Louisiana. TransCameron Pipeline requests authorization to construct, install, and operate certain natural gas pipeline facilities also in Cameron Parish, Louisiana. The new liquefaction facilities would have a design production capacity of 12 million metric ton of liquefied natural gas (LNG) per annum.

The draft EIS assesses the potential environmental effects of the construction and operation of the Calcasieu Pass Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project would have some adverse environmental impacts; however, all of these impacts would be reduced to less-than-significant levels with the implementation of Venture Global Calcasieu Pass' and TransCameron Pipeline's proposed mitigation measures and the additional measures recommended in the draft EIS.

The U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Department of Energy, U.S. Environmental Protection Agency, and U.S. Department of Transportation participated as cooperating agencies in the preparation of the draft EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the National Environmental Policy Act analysis. Although the cooperating agencies provided input on the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the project.

The draft EIS addresses the potential environmental effects of the construction and operation of the following project facilities:

- Nine integrated pre-cooled single mixed refrigerant (SMR) blocks;
- two full-containment aboveground LNG storage tanks, each with a usable capacity of approximately 200,000 cubic meters;
- a 1,500-foot by 3,000-foot turning basin adjacent to the Calcasieu River Ship Channel;
- two LNG berthing docks, each designed to handle carriers of 120,000 to 210,000 cubic meter cargo capacity;
- a 720 megawatt natural gas-fired combined cycle gas turbine electric generation facility;
- approximately 23.4 miles of 42-inch-diameter pipeline to bring feed gas from interconnections with ANR Pipeline Company, Texas Eastern Transmission, LP, and Bridgeline Holdings, LP to the terminal site;
- one meter station;
- three mainline valves; and
- one pig launcher at the meter station and one pig receiver at the gas gate station on the terminal site.

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; libraries in the project area; and parties to this proceeding. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the EIS is available for public viewing on the FERC's website (*www.ferc.gov*) using the eLibrary link. A limited number of hardcopies of the EIS are available for distribution and public inspection at: Federal Energy Regulatory Commission Public Reference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the draft EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on August 13, 2018.

For your convenience, there are four methods you can use to submit your comments with the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular project, please select Comment on a Filing;

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket numbers (CP15–550–000, CP15–551–000, and CP15–551–001) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend the public comment session its staff will conduct in the project area to receive comments on the draft EIS, scheduled as follows:

Date and time	Location
August 1, 2018 (4:00 p.m.–7:00 p.m. CST)	Cameron Parish School Board, Educational Conference Center, 510 Marshall Street, Cameron, Louisiana 70631, (337) 775–5784.

The primary goal of this comment session is to have you identify the specific environmental issues and concerns with the draft EIS. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

The comment session is scheduled from 4 p.m. to 7 p.m. CST. You may arrive at any time after 4 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival; distribution of numbers will be discontinued at 6 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 6 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your verbal comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. However, only intervenors have the right to seek rehearing or judicial review of the Commission's decisions. Any person may seek to intervene on environmental grounds and thereby become a party to this proceeding by filing a motion to intervene that complies with the requirements in Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR Part 385.214). Any such intervention must be filed within the comment period for the draft EIS to be deemed timely. Motions to intervene that are filed after the comment due date for the draft EIS are untimely and may be denied. Any late-filed motion to intervene must show good cause why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules of Practice and Procedures (18 CFR part 385.214(b)(3) and (d)). The Commission strongly encourages electronic filing of interventions in lieu of paper using the eFiling feature described above, and available at *http://www.ferc.gov.* Persons unable to file electronically may submit a paper copy of the intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Questions?

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search, and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP15–550; CP15–551). Be sure you have selected an appropriate date range. 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. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Dated: June 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–13958 Filed 6–28–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–503–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

Take notice that on June 14, 2018, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in Docket No. CP18–503–000 a prior notice request pursuant to sections 157.205, 157.208, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and ANR's blanket certificate issued in Docket No. CP82–480–000, to abandon 20 injection/withdrawal wells, one observation well, and related appurtenances in its Winfield Storage Field, located in Mecosta and Montcalm Counties Michigan (Winfield Storage Field Wells Abandonment Project).

ANR states that the well integrity risk assessments for these wells revealed integrity weaknesses, and to maintain these wells would require some form of remediation, the cost of which would likely exceed the cost of plugging, as well as exceed the value provided by the wells to storage operations. ANR claims many of the wells proposed for abandonment are poor performers in comparison with other wells in the Winfield Storage Field, contributing approximately 2.8 percent of the total field deliverability. Therefore, ANR concludes that plugging and abandoning the wells is the best course of action to maintain field integrity and efficiency. ANR affirms that there will be no change to the field's total inventory, reservoir pressure, reservoir and buffer boundaries, or the certificated capacity as a result of the proposed Winfield Storage Field Wells Abandonment Project. ANR estimates the cost of the Project to be approximately $2.8 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link.

Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Linda Farquhar, Manager, Project Determinations & Regulatory Administration, ANR Pipeline Company, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, by telephone at (832) 320–5685, by facsimile at (832) 320–6685, or by email at *linda_farquhar@transcanada.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: June 22, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–13959 Filed 6–28–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9040–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/18/2018 Through 06/22/2018 Pursuant to 40 CFR 1506.9.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20180140, Draft, DOI, OK, Draft Environmental Impact Statement for the Proposed Habitat Conservation Plan for the Endangered American Burying Beetle for American Electric Power in Oklahoma, Arkansas, and Texas, Comment Period Ends: 08/13/2018, Contact: Adam Zerrenner 512–490–0057

EIS No. 20180141, Final Supplement, USFS, WA, Pack and Saddle Stock Outfitter-Guide Special Use Permit Issuance, Review Period Ends: 08/20/2018, Contact: Paul Willard 509–682–4960

EIS No. 20180142, Draft, BLM, AZ, San Pedro Riparian National Conservation Area Resource Management Plan and Environmental Impact Statement, Comment Period Ends: 09/27/2018, Contact: Amy Markstein 520–258–7231

EIS No. 20180143, Adoption, DHS, SC, Charleston Naval Complex (CNC) Proposed Construction of a Marine Container Terminal Cooper River in Charleston Harbor, City of North Charleston, Charleston County, SC, Review Period Ends: 07/30/2018, Contact: Mark Harvison 912–267–3239

EIS No. 20180144, Final, FERC, OK, Midcontinent Supply Header Interstate Pipeline Project, Review Period Ends: 07/30/2018, Contact: Elaine Baum 202–502–6467

EIS No. 20180145, Final, FHWA, NV, Pyramid Highway/US 395 Connection, Review Period Ends: 07/30/2018, Contact: Abdelmoez Abdalla 775–687–1231

EIS No. 20180146, Final, USFS, WA, LeClerc Creek Grazing Allotment Management Planning, Review Period Ends: 08/13/2018, Contact: Gayne Sears 509–447–7300

EIS No. 20180148, Final, USACE, SC, Navy Base Intermodal Container Transfer Facility, Review Period Ends: 07/30/2018, Contact: Shawn Boone 843–329–8044

EIS No. 20190147, Draft, FERC, LA, Calcasieu Pass Project, Comment Period Ends: 08/13/2018, Contact: Shannon Crosley 202–502–8853

Dated: June 26, 2018.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2018–14003 Filed 6–28–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Board of

Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through May 21, 2020.

FOR FURTHER INFORMATION CONTACT: William Cibulas, Ph.D., Designated Federal Officer, Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Department of Health and Human Services, 4770 Buford Highway, Mailstop F45, Chamblee, Georgia 30341, telephone (770) 488–0662 or fax (770) 488–3377.

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.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–13993 Filed 6–28–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC); Notice of Charter Amendment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter amendment.

SUMMARY: This gives notice under (the Federal Advisory Committee Act of October 6, 1972, that the Healthcare Infection Control Practices Advisory Committee (HICPAC), Centers for Disease Control and Prevention, Department of Health and Human Services, has amended their charter to increase the number and meetings from approximately three times per year to up to eight times per year. Also, this amendment gives notice to change the name of the DNV Healthcare to DNV–GL; to add the American Society of Nephrology (ASN), the American Association of Kidney Patients (AAKP), the Pediatric Infectious Disease Society (PIDS), and the National Association of Directors of Nursing Administration (NADONA) as non-voting liaison organizations to the committee, and to include expertise in environmental microbiology; and increase the number of meetings up to eight times a year. The amended filing date is May 4, 2018.

FOR FURTHER INFORMATION CONTACT: Erin Stone, M.A., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE, Mailstop A–31, Atlanta, Georgia 30333; Email: *HICPAC@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.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–13995 Filed 6–28–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health (NIOSH), Safety and Occupational Health Study Section (SOHSS); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Safety and Occupational Health Study Section, Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Joanne Fairbanks, Designated Federal Officer, Safety and Occupational Health Study Section, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop E74, Atlanta, Georgia 30329, telephone 304–285–6143 or fax 304–285–6147.

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.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–13994 Filed 6–28–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Healthcare Infection Control Practices Advisory Committee (HICPAC)

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the HICPAC. The HICPAC consists of 14 experts in fields including but not limited to, infectious diseases, infection prevention, healthcare epidemiology, nursing, clinical microbiology, surgery, hospitalist medicine, internal medicine, epidemiology, health policy, health services research, public health, and related medical fields. Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of infectious diseases, infection prevention, healthcare epidemiology, nursing, environmental and clinical microbiology, surgery, internal medicine, and public health. Federal employees will not be considered for membership. Members may be invited to serve for four-year terms.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of HICPAC objectives *https://www.cdc.gov/hicpac/.*

DATES: Nominations for membership on the HICPAC be received no later than November 1, 2018. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE, Mailstop A–07, Atlanta, Georgia 30333, emailed (recommended) to *hicpac@cdc.gov,* or faxed to (404) 639–4043.

FOR FURTHER INFORMATION CONTACT: Erin Stone, M.S., HICPAC, Division of

Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE, Mailstop A–07, Atlanta, Georgia 30333; *hicpac@cdc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for HICPAC membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in July 2019, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. SGE Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.)

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

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 CDC and the Agency for Toxic Substances and Disease Registry.

Elaine Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–13996 Filed 6–28–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–2540–10]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 30, 2018.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Skilled Nursing Facility and Skilled Nursing Facility Cost Report; *Use:* Providers of services participating in the Medicare program are required under sections 1815(a), 1833(e) and 1861(v)(1)(A) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. In addition, regulations at 42 CFR 413.20 and 413.24 require adequate cost data and cost reports from providers on an annual basis. The Form CMS–2540–10 cost report is needed to determine a provider's reasonable cost incurred in furnishing medical services to Medicare beneficiaries and reimbursement due to or from a

provider. Reimbursement outside of the PPS may be for payment of Medicare reimbursable bad debt. *Form Number:* CMS–2540–10 (OMB control number: 0938–0463); *Frequency:* Yearly; *Affected Public:* Private Sector; Not-for-profit institutions, Businesses or other for-profits; *Number of Respondents:* 14,486; *Total Annual Responses:* 14,486; *Total Annual Hours:* 2,926,172. (For policy questions regarding this collection contact Julie Stankivic at 410–786–5725.

Dated: June 26, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–14099 Filed 6–28–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–838, and CMS–372(S)]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 30, 2018.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–5806 *OR Email: OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Credit Balance Reporting Requirements; *Use:* Quarterly credit balance reporting is needed to monitor and control the identification and timely collection of improper payments. Credit balances are mainly attributable to provider billing practices and cannot be eliminated by program functions; they will continue to occur. The OIG issued a Management Advisory Report (MAR) on their extended review of credit balances (See Attachment). They state that approximately 90 percent of credit balances result from providers: (1) Billing Medicare and a private insurer for the same service, (2) submitting duplicate billings for services in a manner which cannot be detected by system edits, and (3) billing for services not performed. The MAR recommends that CMS continue its plan of recovery by requiring hospitals to report Medicare credit balances to contractors on a quarterly basis. *Form Number:* CMS–838 (OMB control number: 0938–0600); *Frequency:* Quarterly; *Affected Public:* Private sector (Business or other For-profits); *Number of Respondents:* 52,582; *Total Annual Responses:* 210,328; *Total Annual Hours:* 630,984. (For policy questions regarding this collection contact Anita Crosier at 410–786–0217).

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Annual Report on Home and Community Based Services Waivers and Supporting Regulations; *Use:* We use this report to compare actual data to the approved waiver estimates. In conjunction with the waiver compliance review reports, the information provided will be compared to that in the Medicaid Statistical Information System (MSIS) (CMS–R–284; OMB control number 0938–0345) report and FFP claimed on a state's Quarterly Expenditure Report (CMS–64; OMB control number 0938–1265), to determine whether to continue the state's home and community-based services waiver. States' estimates of cost and utilization for renewal purposes are based upon the data compiled in the CMS–372(S) reports. *Form Number:* CMS–372(S) (OMB control number: 0938–0272); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 47; *Total Annual Responses:* 282; *Total Annual Hours:* 12,126. (For policy questions regarding this collection contact Ralph Lollar at 410–786–0777).

Dated: June 26, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–14077 Filed 6–28–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Human Trafficking Training and Technical Assistance Center (NHTTAC) Consultant and Evaluation Package.

OMB No.: New.

Description: The Trafficking Victims Protection Act of 2000 (Pub. L. 106–386), Section 106(b), as amended at 22 U.S. Code § 7104 and 22 U.S. Code § 7105(c)(4) authorizes The Office on Trafficking in Persons (OTIP), an office of The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) to establish and carry out human trafficking public awareness programs and training for government personnel. Under this authority, OTIP is proposing a data collection through the National Human Trafficking Training and Technical Assistance Center (NHTTAC).

NHTTAC hosts a variety of services, programs, and facilitated sessions to improve service provision to individuals who have been trafficked or who are at risk of trafficking, including The Human Trafficking Leadership Academy (HTLA); the Survivor Fellowship Program; the NHTTAC Customer Support Center; short-term and specialized T/TA requests (requests that take less than 3 hours or 3 or more hours to fulfill, respectively); OTIP-funded grantees; and information through NHTTAC's website, resources, and materials about trafficking.

Assessment, evaluation, and quality improvement are essential components of NHTTAC T/TA delivery and requires data collection from NHTTAC T/TA participants, consultants, and other stakeholders that are involved in NHTTAC activities. Data will be collected after each T/TA event to provide a feedback mechanism to improve the availability and delivery of coordinated and trauma-informed services before, during, and after an individual's trafficking exploitation. Whenever possible, data will be collected from participants and consultants electronically via a survey tailored to the specific T/TA event to maximize convenience and minimize the burden for participants. When appropriate, focus groups and interviews will also be leveraged to obtain contextual information about NHTTAC activities. The types of information collected tie directly to the outputs, short-term, and long-term objectives of NHTTAC.

Respondents: NHTTAC consultants and T/TA participants are from a diverse background with a wide range of experiences within the trafficking and public health fields, including health and human service providers.

Human Trafficking Leadership Academy (HTLA): Participants in the HTLA comprise survivors of trafficking and anti-trafficking service providers.

Survivor Fellowship Program: Participants are representatives from health and human service organizations and survivors of trafficking.

Customer Support Center: Respondents are primarily health and human service providers requesting materials or T/TA on trafficking service provision.

Short-Term and Specialized T/TA: NHTTAC follows up with participants 3 to 6 months after specialized T/TA activities to measure the outcomes of the T/TA.

OTIP Grantees: NHTTAC supports OTIP grantees by providing information, facilitating information sharing, and hosting meetings and webinars.

NHTTAC Website: NHTTAC hosts a website of information and resources; people who visit the website are asked for their feedback on how the website can be improved.

Conference and Meeting Support: NHTTAC supports conferences to share information, promising practices, and evidence-based research on trafficking within the field. NHTTAC also supports the delivery of cluster meetings on behalf of OTIP.

National Advisory Council: NHTTAC supports the National Advisory Council on the Sex Trafficking of Children and Youth in the United States (NAC) by facilitating and coordinating meetings. NAC members are asked for their feedback following meetings regarding how well the group is working together and what could be improved in the future.

Organizational Scholarships: An organizational survivor scholarship may be awarded to organizations for conferences that support OTIP's stated goals and work with individuals who have been trafficked and/or at risk of trafficking.

Professional Development Scholarships: Eligible individuals include child welfare experts, public health professionals, medical service providers, behavioral health professionals, advocates, service providers, and individuals who have been trafficked. Federal, tribal, state, and local agencies and multidisciplinary teams are also eligible.

SOAR to Health and Wellness (SOAR): Tier I trainings of SOAR engage respondents through a variety of modalities: (1) SOAR Online is available to the public and comprises multiple modules. (2) SOAR trainings at select national and regional conferences or similar meetings. (3) SOAR resources will help inform practitioners and professionals who work in the public health field. (4) SOAR training for U.S. Department of Health and Human Services (HHS) personnel is similar to SOAR Online but tailored to HHS staff. (5) Emerging issues webinars are available to the public but targeted to public health professionals, including health and human service providers.

Tier II of SOAR targets respondents through a blended online training to individuals who plan to incorporate the content into their organization's policies and best practices. Organizations can also add the SOAR Online training to their learning management systems.

Tier III of SOAR engages respondents through intensive, in-person T/TA via SOAR for Communities. The goal is to provide strategic planning and goal setting in communities looking to improve their response to trafficking.

NHTTAC Consultants: T/TA expert consultants are subject matter experts with at least 7 years of relevant professional experience. Survivor impact consultants are individuals who have experienced human trafficking. Each category has distinct qualifications and eligibility requirements that are fielded through an online application process.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Survivor Fellowship Organization Feedback Form	10	1	.250	2.50
Survivor Fellowship Fellow Feedback Form	10	1	.250	2.50

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Website Feedback Form	300	1	.083	24.90
Consultant Feedback Form	50	1	.083	4.15
Coordination Feedback Form	100	1	.050	5.00
Focus Group Demographic Survey	25	1	.033	.825
Focus Group Guide	25	1	.750	18.75
Follow-up Feedback Form	300	1	.133	39.90
General Training Feedback Form	150	1	.133	19.95
Interview Guide	25	1	.750	18.75
Pilot Feedback Form	25	1	.150	3.75
Requester Feedback Form	75	1	.117	8.78
Resource Tool Feedback Form	500	1	.033	16.50
SOAR Blended Learning Participant Feedback Form	30	1	.150	4.50
SOAR Conference Feedback Form	500	1	.200	100.00
SOAR Online Participant Feedback Form	1500	1	.100	150.00
SOAR Organizational Feedback Form	20	1	.133	2.66
SOAR Specialized T/TA Feedback Form	200	1	.150	30.00
Webinar Participant Feedback Form	1000	1	.067	67.00
Survivor Impact Consultant Application	20	1	.283	5.66
Expert T/TA Consultant Application	20	1	.267	5.34
Organizational Scholarship Application	10	1	.317	3.17
Professional Development Survivor Scholarship Application	30	1	.333	9.99
Total Annual Burden	5,908			689.15

Estimated Total Annual Burden Hours: 689 hours.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–13998 Filed 6–28–18; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity

AGENCY: Office of Planning, Research, and Evaluation; ACF; HHS.

ACTION: Request for Public Comment.

TITLE: Temporary Assistance for Needy Families (TANF) Data Innovations (TDI) Project (New Collection).

The Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) proposes to collect information as part of the TANF Data Innovations (TDI) project. TDI is an investment to expand the integration, analysis, and use of TANF data to improve program administration, payment integrity, and outcomes for participants.

TDI will start by assessing the needs and readiness of TANF agencies across the country to set up and operate data systems to support program improvement. A key goal of the needs assessment is to help categorize states' readiness to effectively use data and produce evidence. Informed by this assessment and discussions with key stakeholders, TDI will support a broad learning collaborative of state agencies and other entities related to the TANF program, including a range of Technical Assistance (TA) options to help states improve their use of TANF and other program data.

This information collection request will consist of a needs assessment survey to be completed by state TANF agency administrators and staff to gather detailed information about their capacities and needs. These data will help HHS to better understand the challenges and barriers states face in using data and research to inform program decision-making, and they will help the TDI team design future technical assistance activities for TANF agencies to address states' challenges.

Respondents: State TANF Administrators and TANF agency staff. We expect four respondents per state or territory.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Needs Assessment Survey	216	2	0.25	108

Estimated Total Annual Burden Hours: 108.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Sec. 413, Pub. L. 115–31.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–14037 Filed 6–28–18; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2029]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Administrative Practices and Procedures; Formal Evidentiary Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 30, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0191. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Administrative Practices and Procedures; Formal Evidentiary Public Hearing

OMB Control Number 0910–0191—Extension

The Administrative Procedures Act (5 U.S.C. 553(e)) provides that every Agency shall give an interested person the right to petition for issuance, amendment, or repeal of a rule. Section 10.30 (21 CFR 10.30) sets forth the format and procedures by which an interested person may submit to FDA, in accordance with § 10.20 (21 CFR 10.20), a citizen petition requesting the Commissioner of Food and Drugs (the Commissioner) to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action.

The Commissioner may grant or deny such a petition, in whole or in part, and may grant such other relief or take other action as the petition warrants. Respondents are individuals or households, State or local governments, and not-for-profit institutions or groups.

Section 10.33 (21 CFR 10.33), issued under section 701(a) of the Federal, Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(a)), sets forth the format and procedures by which an interested person may request reconsideration of part or all of a decision of the Commissioner on a petition submitted under 21 CFR 10.25 (Initiation of administrative proceedings). A petition for reconsideration must contain a full statement in a well-organized format of the factual and legal grounds upon which the petition relies. The grounds must demonstrate that relevant information and views contained in the administrative record were not previously or not adequately considered by the Commissioner. The respondent must submit a petition no later than 30 days after the decision involved. However, the Commissioner may, for good cause, permit a petition to be filed after 30 days. An interested person who wishes to rely on information or views not included in the administrative record shall submit them with a new petition to modify the decision. FDA uses the information provided in the request to determine whether to grant

the petition for reconsideration. Respondents to this collection of information are individuals of households, State or local governments, not-for-profit institutions, and businesses or other for-profit institutions who are requesting from the Commissioner of FDA a reconsideration of a matter.

Section 10.35 (21 CFR 10.35), issued under section 701(a) of the FD&C Act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20, the Commissioner to stay the effective date of any administrative action.

Such a petition must do the following: (1) Identify the decision involved; (2) state the action requested, including the length of time for which a stay is requested; and (3) include a statement of the factual and legal grounds on which the interested person relies in seeking the stay. FDA uses the information provided in the request to determine whether to grant the petition for stay of action.

Respondents to this information collection are interested persons who choose to file a petition for an administrative stay of action.

Section 10.85 (21 CFR 10.85), issued under section 701(a) of the FD&C Act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20, an advisory opinion from the Commissioner on a matter of general applicability. When making a request, the petitioner must provide a concise statement of the issues and questions on which an opinion is requested, and a full statement of the facts and legal points relevant to the request. Respondents to this collection of information are interested persons seeking an advisory opinion from the Commissioner.

FDA has developed a method for electronic submission of citizen petitions. The Agency still allows for non-electronic submissions; however, electronic submissions of a citizen petition to a specific electronic docket presents a simpler and more straightforward approach. FDA has created a single docket on *https://www.regulations.gov,* the U.S. Government's consolidated docket website for Federal Agencies, for the initial electronic submission of all citizen petitions. The advantage to this is that it ensures efficiency and ease in communication, quicker interaction between citizen petitioners and FDA, and easier access to FDA to seek input through the citizen petition process.

The regulations in 21 CFR 12.22, issued under section 701(e)(2) of the FD&C Act, set forth the instructions for filing objections and requests for a hearing on a regulation or order under § 12.20(d) (21 CFR 12.20(d)). Objections and requests must be submitted within the time specified in § 12.20(e). Each objection, for which a hearing has been requested, must be separately numbered and specify the provision of the regulation or the proposed order. In addition, each objection must include a detailed description and analysis of the factual information and any other document, with some exceptions, supporting the objection. Failure to include this information constitutes a waiver of the right to a hearing on that objection. FDA uses the description and analysis to determine whether a hearing request is justified. The description and analysis may be used only for the purpose of determining whether a hearing has been justified under 21 CFR 12.24 and does not limit the evidence that may be presented if a hearing is granted.

Respondents to this information collection are those parties that may be adversely affected by an order or regulation.

Section 12.45 (21 CFR 12.45), issued under section 701 of the FD&C Act, sets forth the format and procedures for any interested person to file a petition to participate in a formal evidentiary hearing, either personally or through a representative. Section 12.45 requires that any person filing a notice of participation state their specific interest in the proceedings, including the specific issues of fact about which the person desires to be heard. This section also requires that the notice include a statement that the person will present testimony at the hearing and will comply with specific requirements in 21 CFR 12.85, or, in the case of a hearing before a Public Board of Inquiry, concerning disclosure of data and information by participants (21 CFR 13.25). In accordance with § 12.45(e) the presiding officer may omit a participant's appearance.

The presiding officer and other participants will use the collected information in a hearing to identify specific interests to be presented. This preliminary information serves to expedite the prehearing conference and commits participation.

The respondents are individuals or households, State or local governments, not-for-profit institutions and businesses, or other for-profit groups and institutions.

In the **Federal Register** of February 22, 2018 (83 FR 7742), FDA published a 60-day notice requesting public comment on the proposed collection of information. Although one comment was received, it was not responsive to the four collection of information topics solicited and therefore will not be discussed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
10.30—Citizen petition	220	1	220	24	5,280
10.33—Administrative reconsideration of action	6	1	6	10	60
10.35—Administrative stay of action	6	1	5	10	50
10.85—Requests for Advisory opinions	4	1	4	16	64
12.22—Filing objections and requests for a hearing on a regulation or order	5	1	5	20	100
12.45—Notice of participation	5	1	5	3	15
Total					5,569

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates for this collection of information are based on Agency records and experience over the past 3 years. The increase in burden hours is due to an increase in the number of respondents under several provisions.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14058 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0268]

Agency Information Collection Activities; Proposed Collection; Comment Request; Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the recommended labeling of certain beers subject to our labeling jurisdiction.

DATES: Submit either electronic or written comments on the collection of information by August 28, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 28, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 28, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2009–D–0268 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information

is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration

OMB Control Number 0910–0728—Extension

The definition of ''food'' under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (see 21 U.S.C. 321(f)), includes ''articles used for food or drink'' and thus includes alcoholic beverages. As such, alcoholic beverages are subject to the FD&C Act's adulteration and misbranding provisions and implementing regulations related to food. For example, manufacturers of alcoholic beverages are responsible for adhering to the registration of food facilities requirements in 21 CFR part 1 and to the good manufacturing practice regulations in 21 CFR part 110. There are also certain requirements for nutrition labeling on menus, menu boards, and other written materials for alcohol beverages served in restaurants or similar retail food establishments in 21 CFR part 101. However, as reflected in a 1987 Memorandum of Understanding between FDA and the Alcohol and Tobacco Tax and Trade Bureau (TTB), TTB is responsible for the dissemination and enforcement of regulations with respect to the labeling of distilled spirits, certain wines, and malt beverages issued in the Federal Alcohol Administration Act (the FAA Act). In TTB Ruling 2008–3, dated July 7, 2008, TTB clarified that certain beers, which are not made from both malted barley and hops but are instead made from substitutes for malted barley (such as sorghum, rice, or wheat) or are made without hops, do not meet the definition of a ''malt beverage'' under the FAA Act. Accordingly, TTB stated in its ruling that such products (other than saké, which is classified as a wine under the FAA Act), are not subject to the labeling, advertising, or other provisions of TTB regulations issued under the FAA Act.

In cases where an alcoholic beverage is not covered by the labeling provisions of the FAA Act, the product is subject to ingredient and other labeling requirements under the FD&C Act and the implementing regulations that we administer. In addition, as provided for under the Fair Packaging and Labeling Act (FPLA), alcoholic beverages that are not covered by the labeling provisions of the FAA Act are subject to the provisions of the FPLA, which we administer.

Therefore, the beers described in TTB's ruling as not being a ''malt beverage'' are subject to the labeling requirements under the FD&C Act and FPLA, and our implementing regulations. In general, we require that food products under our jurisdiction be truthfully and informatively labeled in accordance with the FD&C Act, the FPLA, and FDA's regulations. Furthermore, some TTB labeling requirements, such as the Government Health Warning Statement under the Alcoholic Beverage Labeling Act and certain marking requirements under the Internal Revenue Code, continue to apply to these products.

Persons with access to the internet may obtain the guidance entitled, ''Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration,'' located at *https://www.fda.gov/FoodGuidances.* This guidance is intended to assist manufacturers on how to label bottled or otherwise packaged beers that are subject to our labeling laws and regulations.

Our food labeling regulations under parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) were issued under the authority of sections 4, 5, and 6 of the FPLA (15 U.S.C. 1453, 1454, and 1455) and under sections 201, 301, 402, 403, 409, 411, 701, and 721 of the FD&C Act (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the FD&C Act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the FD&C Act and the FPLA.

The primary user of the information to be disclosed on the label or labeling of food products is the consumer that purchases the food product. Consumers will use the information to assist them in making choices concerning their purchase of a food product, including choices related to substances that the consumer must avoid to prevent adverse reactions. This information also enables the consumer to determine the role of the food product in a healthful diet. Additionally, FDA intends to use the information to determine whether a manufacturer or other supplier of food products is meeting its statutory and regulatory obligations. Failure of a manufacturer or other supplier of food products to label its products in compliance with section 403 of the FD&C Act and parts 101, 102, 104, and 105 of FDA's food labeling regulations may result in a product being misbranded under the FD&C Act, subjecting the firm and product to regulatory action.

Description of Respondents: The respondents to this collection of information are manufacturers of beers that are subject to our labeling laws and regulations. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§§ 101.3 and 101.22	12	2	24	0.5 (30 minutes)	12
§ 101.4	12	2	24	1	24
§ 101.5	12	2	24	0.25 (15 minutes)	6
§ 101.9	12	2	24	4	96
§ 101.105	12	2	24	0.5 (30 minutes)	12
Section 403(w)(1) of the FD&C Act	12	2	24	1	24

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Guidance document entitled ''Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration''.	12	1	12	1	12
Total					186

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate. Our estimate of the number of respondents is based on the number of regulatory submissions to TTB for beers that do not meet the definition of a ''malt beverage'' under the FAA Act. Based on its records of submissions received from manufacturers of such products, TTB estimates the annual number of respondents to be 12 and the annual number of disclosures to be 24. Thus, we adopt TTB's estimate of 12 annual respondents, and an annual number of disclosures per respondent of 2 in table 1.

Our estimates of the average burden per disclosure for each collection provision are based on our experience with food labeling under the Agency's jurisdiction. The estimated average burden per disclosure for §§ 101.3, 101.4, 101.5, 101.9, 101.22, and 101.105 in table 1 are equal to, and based upon, the estimated average burden per disclosure approved by OMB in OMB control number 0910–0381. We further estimate that the labeling burden of section 403(w)(1) of the FD&C Act, which specifies requirements for the declaration of food allergens, will be 1 hour based upon the similarity of the requirements to that of § 101.4. Finally, FDA estimates that a respondent will spend 1 hour reading the guidance.

Thus, we estimate that 12 respondents will each label 2 products annually, for a total of 24 labels. We estimate that the manufacturers will spend 7.25 hours (0.5 hours + 1 hour + 0.25 hour + 4 hours + 0.5 hour + 1 hour = 7.25 hours) on each label to comply with our labeling regulations and the requirements of section 403(w)(1) of the FD&C Act, for a total of 174 hours (24 labels × 7.25 hours = 174 hours). In addition, 12 respondents will each spend 1 hour reading the guidance document, for a total of 12 hours. Thus, we estimate the total hour burden of the proposed collection of information to be 186 hours (174 hours + 12 hours = 186 hours).

The guidance also refers to previously approved collections of information found in our regulations. The collections of information in §§ 101.3, 101.4, 101.5, 101.9, 101.22, and 101.105 have been approved under OMB control number 0910–0381. Allergen labeling of these beers under section 403(w)(1) of the FD&C Act, which was added by the Food Allergen Labeling and Consumer Protection Act of 2004, has been approved under OMB control number 0910–0792.

Dated: June 22, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14056 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1129]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; National Agriculture and Food Defense Strategy Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 30, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title ''National Agriculture and Food Defense Strategy Survey.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

National Agriculture and Food Defense Strategy Survey

OMB Control Number—0910–NEW

We are seeking OMB approval of the National Agriculture and Food Defense Strategy (NAFDS) under the FDA Food Safety Modernization Act (FSMA), section 108. This is a voluntary survey of State governments intended to gauge government activities in food and agriculture defense from intentional contamination and emerging threats. The collected information will be included in the mandatory 2019 NAFDS followup Report to Congress. The authority for FDA to collect the information derives from the Commissioner of Food and Drugs' authority provided in section 1003(d)(2)(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(c)).

Protecting the nation's food and agriculture supply against intentional contamination and other emerging threats is an important responsibility shared by Federal, State, local, tribal, and territorial governments as well as private sector partners. On January 4, 2011, the President signed FSMA.

FSMA focuses on ensuring the safety of the U.S. food supply by shifting the efforts of Federal regulators from response to prevention and recognizes the importance of strengthening existing collaboration among all stakeholders to achieve common public health and security goals. FSMA identifies some key priorities for working with partners in areas such as reliance on Federal, State, and local agencies for inspections; improving foodborne illness surveillance; and leveraging and enhancing State and local food safety and defense capacities. Section 108 of FSMA (NAFDS) requires the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA), in coordination with the Department of Homeland Security (DHS), to work together with State, local, territorial, and tribal governments to monitor and measure progress in food defense.

In 2015, the initial NAFDS Report to Congress detailed the specific Federal response to food and agriculture defense goals, objectives, key initiatives, and activities that HHS, USDA, DHS, and other stakeholders planned to accomplish to meet the objectives outlined in FSMA. The NAFDS charts a direction for how the Federal Agencies, in cooperation with State, local, territorial, and tribal governments and private sector partners, protect the nation's food supply against intentional contamination. Not later than 4 years after the initial NAFDS Report to Congress (2015), and every 4 years thereafter (*i.e.,* 2019, 2023, 2017, etc.), HHS, USDA, and DHS are required to revise and submit an updated report to the relevant committees of Congress.

HHS/FDA is primarily responsible for obtaining the information from Federal and State, local, territorial, and tribal partners to complete the NAFDS Report to Congress. An interagency working group will conduct the survey and collect and update the NAFDS as directed by FSMA, including developing metrics and measuring progress for the evaluation process.

The proposed survey of Federal and State partners will be used to determine what food defense activities, if any, Federal and/or State Agencies have completed (or are planning) from 2015 to 2019. Planning for the local, territorial, and tribal information collections will commence after the collection and reporting of Federal and State Agency level data.

This survey will be repeated approximately every 2 to 4 years, as described in section 108 of FSMA (NAFDS), for the purpose of monitoring progress in food and agricultural defense by government agencies.

A purposive sampling strategy will be employed, such that the government agencies participating in food and agricultural defense cooperative agreements with FDA (22 State Agencies) and USDA (27 State Agencies) will be asked to respond to the voluntary survey. Food defense leaders responsible for conducting food defense activities during a food emergency for their jurisdiction will be identified and will receive an emailed invitation to complete the survey online; they will be provided with a web link to the survey. The survey will be conducted electronically on the *FDA.gov* web portal, and results will be analyzed by the interagency working group.

In the **Federal Register** of March 28, 2018 (83 FR 13284), we published a notice inviting public comment on the proposed collection of information. Although one comment was received, it was not responsive to the four collection of information topics solicited and therefore will not be discussed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
State Survey	49	1	49	0.33 (20 minutes)	16.17

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The total burden for this collection of information, therefore, is 16.17 hours.

The FDA Office of Partnerships reviewed the questionnaire and provided the amount of time to complete the survey. The total burden is based on our previous experiences conducting surveys.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14051 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0025]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Animal Food Labeling; Declaration of Certifiable Color Additives

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 30, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0721.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed

collection of information to OMB for review and clearance.

Animal Food Labeling; Declaration of Certifiable Color Additives

OMB Control Number 0910–0721—Extension

This information collection is associated with requirements under § 501.22(k) (21 CFR 501.22(k)) in which animal food manufacturers must declare the presence of certified and noncertified color additives in their animal food products on the product label. We issued this regulation in response to the Nutrition Labeling and Education Act of 1990 (Pub. L. 101–535) to make animal food regulations consistent with the regulations regarding the declaration of color additives on human food labels and to provide animal owners with information on the color additives used in animal food. Animal owners use the information to become knowledgeable about the foods they purchase for their animals. Color additive information enables a consumer to comparison shop and to avoid substances to which their animals may be sensitive.

Description of Respondents: Respondents to this collection of information are manufacturers of pet food products that contain color additives. In the **Federal Register** of February 20, 2018 (83 FR 7198), FDA published a 60-day notice requesting public comment on the proposed collection of information.

(Comment) One comment was received that supported FDA's need for the information collection and characterized the burden of the information collection as low compared to the importance of informative food labels. The comment did not suggest revising our estimate of the burden. However, it suggested we should provide greater detail about how we estimated the number of respondents and the flow of new products.

(Response) We based our estimate of the number of respondents on the number of pet food manufacturers subject to this regulation. The figure of 3,120 used in table 1 was derived from the number of establishments listed under North American Industrial Classification System codes 311111 and 311119, including very small establishments. As noted in the 60-day notice, we based our estimate of the flow of new products on A.C. Nielsen data for the number of animal food product units for sale (for which sales of the products are greater than zero) in the latest year for which data is available, stated to be 25,874. Then, we assumed that the flow of new products would be 10 percent per year, for a figure of 2,587 new products per year. That figure was used in table 1 as our estimate of the total annual disclosures. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section/activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
501.22(k); labeling of color additive or lake of color additive; labeling of color additives not subject to certification.	3,120	0.8292	2,587	0.25 (15 minutes)	647

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The requirement became effective November 18, 2013; thus, we estimate that the burden associated with the labeling requirements under § 501.22(k) applies only to new product labels. Because the vast majority of animal food products that contain certified color additives are pet foods, we limit our burden estimate to reviewing labels for the use of certified color additives to pet food manufacturers subject to this regulation. Based on A.C. Nielsen data, we estimate that the number of animal food product units subject to § 501.22(k) for which sales of the products are greater than zero is 25,874. Assuming that the flow of new products is 10 percent per year, then 2,587 new animal food products subject to § 501.22(k) will become available on the market each year. We also estimate that there are approximately 3,120 manufacturers of pet food subject to either § 501.22(k)(1) or (2). Assuming the approximately 2,587 new products are split equally among the firms, then each firm would prepare labels for approximately 0.8292 new products per year (2,587 new products—3,120 firms is approximately 0.8292 labels per firm). We expect that firms prepare the required labeling for their products in a manner that takes into account at one time all information required to be disclosed on their product labels. Based on our experience with reviewing pet food labeling, we estimate that firms would require less than 0.25 hour (15 minutes) per product to comply with the requirement to include the color additive information pursuant to § 501.22(k). The total burden of this activity is 647 hours (2,587 labels × 0.25 hour/label is approximately 647 hours). The burden for this information collection has not changed since the last OMB approval.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14059 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2398]

Development of Non-Traditional Therapies for Bacterial Infections; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Development of Non-Traditional Therapies for Bacterial Infections.'' The purpose of the public workshop is to discuss the general development considerations of non-traditional therapies, including pre-clinical development, early clinical studies, and phase 3 clinical trial designs to evaluate safety and efficacy.

DATES: The public workshop will be held on August 21, 2018, from 8:30 a.m. to 4:30 p.m. and August 22, 2018, from

8:30 a.m. to 12 noon. Submit either electronic or written comments on this public workshop by August 15, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 15, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight eastern time on August 15, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–2398 for ''Development of Non-Traditional Therapies for Bacterial Infections; Public Workshop.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Benner and/or Jessica Barnes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6221, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop regarding development of non-traditional therapies for bacterial infections. Discussions will focus on pre-clinical development, early stage clinical trials, and phase 3 clinical trial designs to evaluate safety and efficacy of non-traditional therapies intended to serve as primary or adjunctive therapy to existing antibacterial drugs.

II. Topics for Discussion at the Public Workshop

FDA is particularly interested in discussing pre-clinical and clinical development of several types of non-traditional therapies, including monoclonal antibodies, immunomodulators, lysins, and other non-traditional therapies.

The Agency encourages health care providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders to attend this public workshop.

III. Participating in the Public Workshop

Registration: Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register online by August 14, 2018, midnight Eastern Time. To register, please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone to *NonTraditionalTherapiesWorkshop2018@fda.hhs.gov.*

Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Jessica Barnes or Lori Benner (see **FOR FURTHER INFORMATION CONTACT**) no later than August 13, 2018.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations or request time for a joint presentation. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by August 10, 2018. All requests to make oral presentations must be received by the close of registration on August 6, 2018. If selected for presentation, any presentation materials must be emailed to *NonTraditionalTherapiesWorkshop 2018@fda.hhs.gov* no later than August 14, 2018. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast at the following site: *https://collaboration.fda.gov/dcontpfbi/.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A link to the transcript will also be available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm606052.htm.*

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14048 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6209]

Assessing User Fees Under the Biosimilar User Fee Amendments of 2017; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Assessing User Fees Under the Biosimilar User Fee Amendments of 2017.'' This guidance concerns FDA's implementation of the Biosimilar User Fee Amendments of 2017 (BsUFA II) and certain changes in policies and procedures surrounding its application.

DATES: The announcement of the guidance is published in the **Federal Register** on June 29, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–6209 for ''Assessing User Fees Under the Biosimilar User Fee Amendments of 2017.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management

Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Beena Alex, Division of User Fee Management and Budget Formulation, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Rm. 2185, Silver Spring, MD 20993, 301–796–7900, *CDERCollections@fda.hhs.gov*; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Assessing User Fees Under the Biosimilar User Fee Amendments of 2017.'' This guidance concerns the implementation of BsUFA II, including an explanation about the new fee structure and types of fees for which entities are responsible. BsUFA II extends FDA's authority to collect user fees from fiscal year (FY) 2018 to 2022 and introduces a number of technical revisions that affect what fees are collected and how fees are collected. Fees authorized by this legislation help fund the process for the review of biosimilar biological product applications and have played an important role in expediting the review and approval process.

BsUFA II authorizes biosimilar biological product development program fees (BPD fees), biosimilar biological product application fees, and biosimilar biological product program fees. This guidance describes when these fees are incurred and the process by which applicants can submit payments. The guidance also provides information on consequences of failing to pay BsUFA II fees and the processes for submitting reconsideration and appeal requests.

In the **Federal Register** of November 16, 2017 (82 FR 53505), FDA announced the availability of a draft version of this guidance and provided interested parties an opportunity to submit comments. We have reviewed the comment submitted to the docket. This guidance does not include any substantive changes from the draft guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance, when finalized, will represent the current thinking of FDA on assessing user fees under the biosimilar user fee amendments of 2017. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection are given under this section with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

With respect to the collection of information associated with this document, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Assessing User Fees Under the Biosimilar User Fee Amendments of 2017: Guidance for Industry.

Description: This guidance provides information on the assessment of biosimilar biological product user fees, describes the types of user fees authorized, the process for submitting payments to FDA, and consequences for failing to pay BsUFA fees. The guidance also describes how FDA determines which products are subject to a fee and the changes to certain FDA policies regarding BsUFA fees. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Biosimilar User Fee Act of 2012 and recently renewed in 2017 (BsUFA) under the FDA Reauthorization Act of 2017, authorizes FDA to assess and collect user fees from companies that produce biosimilar biological products in conjunction with the review of biosimilar biological product applications. The guidance includes processing and policies for the initial and the annual biosimilar biological product development (BPD) fees; the BPD discontinuation process requirements and BPD reactivation fees; process and policies for biosimilar biological product application fees including exceptions to the application fees and refund of fees; process and policies for the small business waiver of the biosimilar application fee; and implementation of the biosimilar biological product program fee.

The burdens associated with requesting a small business waiver of BsUFA fees and the associated burdens for new activities as noted in the guidance are listed in table 1.

FDA estimates the annual burden of these new collections of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Request for discontinuation from BPD program.	2	1	2	1	2
Request to move products to discontinued section of the biosimilar list.	5	1	5	0.5 (30 minutes)	2.5
Small business waiver of the BsUFA application fee.	1	1	1	16	16
Small business waiver reconsiderations	1	1	1	24	24
Small business waiver appeals	1	1	1	12	12
Annual Fee Determination Survey	35	1	35	1	35
Annual BsUFA fees correspondence	35	1	35	2	70
Total					161.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This guidance also refers to previously approved collections of information found in FDA forms developed to support its user fee program. Specifically, the guidance refers to Form FDA 3792; Forms FDA 3913 and 3914; and Form FDA 3971, which have been approved under OMB control numbers 0910–0718, 0910–0719, 0910–0805, and 0910–0693, respectively. The guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR part 312 are currently approved under OMB control number 0910–0014; the collections of information regarding new drug applications under the FD&C Act are approved under OMB control number 0910–0001; and biologics license applications under sections 351(a) or 351(k) of the Public Health Service Act are approved under OMB control numbers 0910–0338 and 0910–0719, respectively.

This final guidance contains information collection provisions subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Except for the provisions listed in table 1, the information collections already have been approved. The applicable provisions are shaded in the guidance to identify those for which OMB approval has not yet been obtained. When approval of these provisions has been received, FDA will provide notice. BsUFA II provides the statutory authority to collect user fees from FY 2018 through FY 2022. Consistent with the statutory requirements of BsUFA II, FDA is issuing this guidance to facilitate understanding and enhancing implementation of the policies and processes in the assessment of biosimilar user fees in upcoming fiscal years.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, or *https://www.regulations.gov*.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14049 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1967]

Agency Information Collection Activities; Proposed Collection; Comment Request; Biosimilars User Fee Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection supporting the Agency's Biosimilars User Fee Program.

DATES: Submit either electronic or written comments on the collection of information by August 28, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 28, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 28, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–1967 for ''Biosimilars User Fee Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements for members of the public when submitting reports, keeping records, or providing information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Biosimilars User Fee Program

OMB Control Number 0910–0718—Extension

This information collection supports FDA's Biosimilars User Fee Program. The Biologics Price Competition and Innovation Act of 2009 (BPCI Act), amended the Public Health Service Act (PHS Act) by adding section 351(k) (42 U.S.C. 262(k)) to create an abbreviated approval pathway for biological products shown to be biosimilar to or interchangeable with an FDA-licensed reference biological product. This allows a company to apply for licensure of a biosimilar or interchangeable biological product (351(k) application). The BPCI Act also amended section 735 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g) to include 351(k) applications as a type of application under ''human drug application'' for the purposes of the prescription drug user fee provisions.

The Biosimilar User Fee Act of 2012 (BsUFA) authorized FDA to assess and collect user fees for certain activities in connection with biosimilar biological product development (BPD). BsUFA was reauthorized for an additional 5 years in August 2017 (BsUFA II). FDA's biosimilar biological product user fee program requires FDA to assess and collect user fees for certain meetings concerning biosimilar BPD (BPD meetings), investigational new drug applications (INDs) intended to support a biosimilar biological product application, and biosimilar biologic license applications (BLAs).

Form FDA 3792, entitled ''Biosimilars User Fee Cover Sheet'', is submitted by each new BPD entrant (identified via a new meeting request or IND submission) and new BLAs. Form FDA 3792 requests the minimum necessary information to identify the request and determine the amount of the fee to be assessed, and to account for and track user fees. The form provides a cross-reference of the fees submitted for an activity with the actual submission or activity by using a unique number tracking system. The information collected is used by FDA's Center for Drug Evaluation and Research and Center for Biologics Evaluation and Research to initiate the administrative screening of biosimilar biological product INDs, and BLAs, and to account for and track user fees associated with BPD meetings.

In addition to the Biosimilars User Fee Cover Sheet, the information collection includes an annual survey of all BsUFA II participants designed to provide information to FDA of anticipated BsUFA II activity in the upcoming fiscal year. This information helps FDA set appropriate annual BsUFA II fees.

FDA has also developed the draft guidance entitled, ''Assessing User Fees Under the Biosimilar User Fee Amendments of 2017'' to assist industry in understanding when fees are incurred and the process by which applicants can

submit payments. The draft guidance also explains how respondents can request discontinuation from the BPD program as well as how respondents can request to move products to the discontinued section of the biosimilar list. Finally, the draft guidance provides information on the consequences of failing to pay BsUFA II fees, as well as processes for submitting reconsideration and appeal requests. The draft guidance is available on our website at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM584984.pdf.*

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection title	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Biosimilar User Fee Cover Sheet; Form FDA 3792	35	1	35	0.5 (30 minutes)	17.5
Annual Survey	35	1	35	1	35
Request for discontinuation from BPD program	2	1	2	1	2
Request to move products to discontinued section of the biosimilar list.	5	1	5	0.5 (30 minutes)	2.5
Total					57

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have increased our estimate by an additional 15 respondents since last OMB approval of the information collection. This estimated increase is based on our expectation that participation in the BPD program will continue to grow, consistent with our experience since establishment of the information collection in 2012.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14057 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1903]

Modernizing Pharmaceutical Quality Systems; Studying Quality Metrics and Quality Culture; Quality Metrics Feedback Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) Center for Drug Evaluation and Research (CDER) is announcing two new efforts to gather feedback on the use of quality metrics to modernize pharmaceutical quality systems and advance innovation based on stakeholder feedback. These efforts include Type C formal meeting requests and pre-abbreviated new drug application (pre-ANDA) meeting requests, and a pilot study to gain feedback from those establishments for which Type C formal meetings or pre-ANDA meetings do not apply (*e.g.,* active pharmaceutical ingredients (API) establishments, contract manufacturing organizations, over-the-counter (OTC) monograph products establishments, or marketed unapproved finished drug products establishments). Participation in either of these efforts is voluntary and the programs are intended to foster the joint efforts of FDA and stakeholders to further develop an FDA Quality Metrics Program. The FDA Quality Metrics Program aims to evaluate a new approach for regulatory oversight of pharmaceutical products through the collection of certain quality information developed and maintained in the course of manufacturing drugs under current good manufacturing practices. FDA intends to use quality metrics data to further develop the Agency's risk-based inspection scheduling (*e.g.,* decreased surveillance inspection frequency for certain establishments) to improve the efficiency and effectiveness of establishment inspections, improve FDA's evaluation of drug manufacturing and control operations, and identify situations in which there may be a risk for drug supply disruption.

DATES: Submit a written request to participate in the program by July 29, 2019. See sections II and III.B of this notice for information to include in such requests. FDA will start accepting requests beginning July 30, 2018.

FOR FURTHER INFORMATION CONTACT: Tara Gooen Bizjak, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2109, Silver Spring, MD 20993, 301–796–3257, *Tara.Gooen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

More than a decade ago, FDA launched an initiative to encourage the implementation of a modern, risk-based pharmaceutical quality assessment system. As part of this initiative, and in recognition of the increasing complexity of pharmaceutical manufacturing, FDA developed a 21st century vision for manufacturing and quality with input from academia and industry. The desired state was described as follows: ''A maximally efficient, agile, flexible pharmaceutical manufacturing sector that reliably produces high-quality drug products without extensive regulatory oversight.'' [1]

There has been significant progress toward this vision in the intervening years, as evidenced by programs and guidance from FDA around major initiatives such as pharmaceutical development and quality by design, quality risk management and pharmaceutical quality systems, process validation, and process analytical technology, among other initiatives. These programs and guidances are intended to promote effective use of the most current pharmaceutical science and engineering principles and knowledge throughout the life cycle of a product.

While much progress has been made, we have not fully realized our 21st century vision for manufacturing and quality. Rather than focusing on use of science- and risk-based principles as described in current good manufacturing practices, many establishments continue to focus on minimum requirements (*e.g.,* check-box approach). Recalls and drug shortages, which are often indications of serious product quality defects caused by drug

[1] See ''FDA Pharmaceutical Quality Oversight: One Quality Voice'' at *https://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/UCM442666.pdf.*

manufacturing issues, continue to occur.[2] [3] The Agency has found that most drug shortages stem from quality issues (*e.g.,* substandard manufacturing facilities or processes, or significant quality defects are identified in the finished product). These situations necessitate remediation efforts to fix the issue, which in turn may interrupt production and cause a shortage of drugs. Taking action to reduce drug shortages remains a top priority for FDA.

FDA sought input from industry on the establishment of an FDA Quality Metrics Program as another mechanism to promote continual improvement in manufacturing quality. FDA has also consulted with other stakeholders to identify mutually useful and objective quality metrics. The Agency learned that it should perform further studies of the FDA Quality Metrics Program through a pilot program and additional discussions with stakeholders. Based on this input, FDA is initiating this Quality Metrics Feedback Program to assist the Agency in the development of a Quality Metrics Program. Stakeholders are encouraged to participate in these efforts by using the two feedback procedures described below. Additional references may be found at the FDA web page, Quality Metrics for Drug Manufacturing, *https://www.fda.gov/Drugs/DevelopmentApprovalProcess/Manufacturing/ucm526869.htm.*

Based on stakeholder feedback, FDA is presenting two new methods for engaging industry. The approaches announced in this notice provide industry stakeholders with an opportunity to provide information to further the development of the Quality Metrics Program. CDER will also continue to engage with trade associations to gather feedback for industry subsectors.

FDA does not intend to publicly disclose information submitted to the Agency as part of this Quality Metrics Feedback Program that is exempt from disclosure under disclosure laws and regulations. The following types of information may be exempt from public disclosure if not made public by the owner: (1) Commercial relationships; (2) production and sales volume; (3) business plans; and (4) unapproved applications.

II. Type C Formal Meetings and Pre-ANDA Meetings

Applicants who have an interest in participating in this method of the FDA Quality Metrics Feedback Program should submit a written request. New drug application (NDA) applicants or sponsors should follow the procedures for submitting Type C meeting requests as described in the draft guidance for industry entitled ''Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products (December 2017).'' [4] The requests should be labeled as ''Type C Meeting—Request to Participate in the Quality Metrics Feedback Program.'' Pre-ANDA applicants or sponsors planning to submit an original or supplemental pre-ANDA should submit a pre-ANDA meeting request to *OPQ-OS-QualityMetrics@fda.hhs.gov* and label it as ''Pre-ANDA Meeting—Request to Participate in the Quality Metrics Feedback Program.''

In addition to the procedures and items outlined in the referenced guidances, a request for a meeting should include the following items:

1. A description of the quality metrics currently used for the product and process in the facility(ies) that are specific to the risks of the facility(ies), products, manufacturing processes, supply chain, and current business decisions (*e.g.,* amount of product held in inventory or days on hand). That is, the metrics which have been determined by the applicant to be most meaningful to product quality and for patient impact.

2. A statement on whether the following quality metrics are measured using consistent definitions: Lot acceptance rate per product or rejection rate, invalidated out-of-specification rate per product, product quality complaint rate, process performance and process capability per product, corrective action and preventive action effectiveness, quality system timeliness, and on-time-in-full fulfillment of orders.

3. A statement that suitably detailed technical definitions for the quality metrics data elements in the previously mentioned items (1) and (2) are established to enable consistent measurement and comparison.

4. A description of the routine assessment and management oversight of quality culture. This assessment should include all levels of staff, from senior management to base level employees, to gauge and shape the behaviors, beliefs, values, morals, conventions, goals, and practices that characterize or are associated with manufacturing at the facility(ies).

5. A description of the ongoing site management and senior management review of the quality metrics program, including identification of areas for continual improvement.

To maximize the benefits of an in-person meeting, FDA prefers that the applicant or sponsor provide a statement of willingness for one or more of the following: (1) To provide access to certain current and historical product-specific measures and the data supporting the measures, including lot acceptance rate or rejection rate, product quality complaint rate, and invalidated out-of-specification rate; (2) to share available information supporting the categories (product specific measurements), where applicable, of process performance and process capability (product specific), corrective and preventive actions (CAPA) effectiveness, quality culture, quality system metrics (*e.g.,* periodic product report on-time rate), and on-time-in-full fulfillment of orders (product specific); and (3) to discuss details of their quality metrics program, including quality metrics data definitions and methods of analyzing available data.

We intend to accept as many meeting requests as Agency resources allow and to focus on establishments that show an interest in engaging in robust discussions regarding their quality metrics programs. FDA expects to notify companies in writing of its decision regarding meeting acceptance within 60 days of receipt of their requests. Although incomplete and/or unclear requests will generally be denied, FDA may contact the applicant to request additional information. Once a meeting is granted, the participant can engage with the Quality Metrics Program team in accordance with existing meeting procedures and guidance(s). FDA anticipates that discussions with stakeholders will help to further develop the Quality Metrics Program and will provide the Agency with information on existing industry practices using modern pharmaceutical quality systems.

III. Pilot Program

A. Participation

Establishments eligible to participate in this voluntary Quality Metrics Pilot

[2] Refer to *https://www.fda.gov/Drugs/DrugSafety/DrugRecalls/default.htm* for more information on drug recalls.

[3] In 2012, for example, based on information collected from manufacturers, FDA determined that 66 percent of disruptions in drug manufacturing were the result of either efforts to address product-specific quality failures or broader efforts to remediate or improve an unsafe manufacturing facility. FDA's ''Strategic Plan for Preventing and Mitigating Drug Shortages,'' see figure 2, at *https://www.fda.gov/downloads/drugs/drugsafety/drugshortages/ucm372566.pdf.*

[4] We update guidances periodically. To make sure you have the most recent version of a guidance, check the FDA Drugs guidance web page at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Program are limited to nine or fewer firms that follow the procedures set forth in section III.B and meet the following selection criteria:

1. The company must be a covered establishment. A covered establishment is an owner or operator of an establishment that is engaged in the manufacture, preparation, propagation, compounding, or processing of a covered drug product, or an API used in the manufacture of a covered drug product. A covered drug product is: (1) Subject to an approved application under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262); (2) marketed pursuant to an OTC monograph; or (3) a marketed unapproved finished drug product. A covered establishment does not need to be involved in the physical manipulation of a drug.

2. The company must have a quality metrics program that has been developed and implemented by the quality unit and that is used to support product and process quality improvement. The established quality metrics program must include product-specific measurements and include at a minimum: (1) Lot acceptance rate or rejection rate, (2) invalidated out-of-specification rate, and (3) product quality complaint rate. If a product is manufactured at more than one location, these product specific metrics could be limited to operations at the participating covered establishment. To provide feedback on recommended changes in the metrics definitions, send an email to *OPQ-OS-QualityMetrics@fda.hhs.gov.*

The ideal participant in the Quality Metrics Pilot Program will have the following elements in their quality metrics program:

1. Quantitative measurement of quality metrics for the products and processes in the facility(ies) that are specific to the risks of the facility(ies), products, manufacturing processes, supply chain, and current business decisions (*e.g.,* amount of product held in inventory or days on hand);

2. Certain quality metrics measured, such as lot acceptance rate or rejection rate per product, invalidated out-of-specification rate per product, product quality complaint rate, process performance and process capability per product, CAPA effectiveness, quality system timeliness, and on-time-in-full fulfillment of orders;

3. Suitably detailed technical definitions for the quality metrics data elements to enable consistent measurement and comparison;

4. routine assessment and management oversight of quality culture at multiple levels of staff, such as senior management to base level employees, to assess and shape the behaviors, beliefs, values, morals, conventions, goals, and practices that characterize or are associated with manufacturing at the facility(ies); and

5. Ongoing site management and senior management review of the quality metrics with identification of areas for continual improvement.

The establishments that will likely benefit most from the Quality Metrics Pilot Program and discussions with FDA are those that are able to: (1) Provide access to certain current and historical product-specific measures and the data supporting the measures, including lot acceptance rate or rejection rate, product quality complaint rate, and invalidated out-of-specification rate; (2) share available information supporting the following categories (product specific measurements), where applicable, of process performance and process capability (product specific), CAPA effectiveness, quality culture, quality system metrics (*e.g.,* periodic product report on-time rate), and on-time-in-full fulfillment of orders (product-specific); (3) discuss details of their quality metrics program, including quality metrics data definitions and methods of analyzing available data (for comparison purposes, we are interested in establishments that are willing to provide data based on definitions in the draft guidance as well as their preferred definitions); (4) be available for real-time consultations with FDA; (5) provide information about the firm's quality management system related to the quality metrics program; and (6) comment on and discuss their experiences with this Quality Metrics Pilot process.

B. Procedures

To be considered for the voluntary Quality Metrics Pilot Program, a company should submit a statement of interest for participation to *OPQ-OS-QualityMetrics@fda.hhs.gov.* The statement of interest should include agreement to the selection qualities listed in section III.A.

The following captures the proposed process for the Quality Metrics Pilot Program selection:

1. FDA will collect statements of interest for participation in the pilot program beginning July 30, 2018.

2. FDA will select the first nine participants that submit a statement of interest in participation meeting the selection criteria in the first paragraph of section III.A. While any covered establishment meeting the criteria may request inclusion in the pilot program per the first paragraph of section III.A, FDA would prefer that establishments for which Type C formal meetings and pre-ANDA meetings are not applicable use this approach. Additionally, FDA is seeking participants that represent different sectors of the pharmaceutical industry, including companies that manufacture the following types of products: Brand, generics, biotechnology, APIs, and non-application products marketed under the OTC monograph system. Furthermore, we are looking for representation from contract development and manufacturing organizations, establishments with small and large portfolios, and establishments with past or current product availability issues (*e.g.,* history of a drug supply issue or recall).

3. Lessons learned from the initial participants in the pilot program (maximum of nine participants) will help inform FDA's thinking as it refines the Quality Metrics Program.

IV. Beginning Date of the Quality Metrics Pilot Program and Type C Formal Meetings and Pre-ANDA Meetings

FDA intends to accept requests for participation in the voluntary Quality Metrics Pilot Program and Type C formal meetings and Pre-ANDA meetings beginning July 30, 2018. The pilot program will begin July 30, 2018 and will close July 29, 2019. The Type C formal meetings and pre-ANDA meetings will be granted based on the schedules described in the associated guidance documents.

V. Paperwork Reduction Act of 1995

This notice refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 505 have been approved under OMB control number 0910–0001 and the collections of information in 21 CFR parts 210 and 211 have been approved under OMB control number 0910–0139.

The collections of information to be included in a meeting request for a product submitted in an NDA is approved under OMB control number 0910–0429. The collections of information to be included in a meeting request for a product submitted in an ANDA is approved under OMB control number 0910–0797.

Dated: June 25, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14005 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1896]

Quality Metrics Site Visit Program for Center for Drug Evaluation and Research and Center for Biologics Evaluation and Research Staff; Information Available to Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) in the Food and Drug Administration (FDA or Agency) are announcing a 2018 CDER and CBER staff experiential learning site visit program specific to FDA's Quality Metrics Program. FDA is proposing this program, in part, in response to input from a variety of stakeholders over the past couple of years. The purpose of this 2018 Quality Metrics Site Visit Program is to provide experiential and firsthand learning opportunities to FDA staff involved in the development of the FDA Quality Metrics Program and to provide stakeholders with an opportunity to explain the advantages and challenges associated with implementing and managing a robust Quality Metrics Program. This notice invites pharmaceutical companies interested in participating in this program to submit a Quality Metrics Site Visit proposal.

DATES: Submit either an electronic or written proposal to participate in this program by August 28, 2018. See section IV of this notice for information on what to include in such proposals.

FOR FURTHER INFORMATION CONTACT: Tara Gooen Bizjak, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2109, Silver Spring, MD 20993–0002, 301–796–3257, email: *Tara.Gooen@fda.hhs.gov* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

More than a decade ago, FDA launched an initiative to encourage the implementation of a modern, risk-based pharmaceutical quality assessment system. As part of this initiative, and in recognition of the increasing complexity of pharmaceutical manufacturing, FDA developed a 21st century vision for manufacturing and quality with input from academia and industry. The desired state was described as follows: ''A maximally efficient, agile, flexible pharmaceutical manufacturing sector that reliably produces high-quality drug products without extensive regulatory oversight.'' [1]

There has been significant progress toward this vision in the intervening years as evidenced by programs and guidances from FDA around major initiatives such as pharmaceutical development and quality by design, quality risk management and pharmaceutical quality systems, process validation, and emerging technology, among others. These programs and guidances are intended to promote effective use of the modern pharmaceutical science and engineering principles and knowledge throughout the life cycle of a product.

FDA sought input from industry on the establishment of an FDA Quality Metrics Program as another mechanism to promote continual improvement in manufacturing quality. FDA has also consulted with other stakeholders to identify mutually useful and objective quality metrics. The Agency heard that it should perform further studies of existing quality metrics programs and conduct additional discussions with stakeholders. Based on this input, CDER and CBER are initiating this 2018 Quality Metrics Site Visit Program to assist the Agency in understanding existing programs. This voluntary site visit program is designed to offer experiential and firsthand learning opportunities to CDER and CBER staff involved in the development of FDA's Quality Metrics Program and to provide stakeholders with an opportunity to explain the advantages and challenges associated with implementing and managing a robust quality metrics program. One goal of these visits is to provide CDER and CBER staff exposure to existing quality metrics programs through onsite visits, tour of operations, and discussions with establishments to assist staff in further developing FDA's Quality Metrics Program. Another goal is to provide a forum for industry to engage in the process and provide additional feedback into improving the FDA Quality Metrics Program.

[1] See ''FDA Pharmaceutical Quality Oversight: One Quality Voice'' at *https://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/UCM442666.pdf.*

II. The Site Visit Program

During a quality metrics site visit, CDER and CBER staff will observe how quality metrics data are gathered, collected, and reported to management. We anticipate 5 to 10 FDA representatives (involved in the development of FDA's Quality Metrics Program) would participate in a site visit taking place over a 1- to 2-day period. To facilitate the learning process, the host establishment may present overviews of the development and management of their quality metrics program. The presentation(s) will allow the participating establishments an opportunity to showcase technologies that support their program.

CDER and CBER encourage covered establishments, including establishments that do not perform physical manipulation of drugs, engaging in the development and manufacturing of both active pharmaceutical ingredients (small and large molecules) and drug products to submit quality metrics site visit proposals. A covered establishment is an owner or operator of an establishment that is engaged in the manufacture, preparation, propagation, compounding, or processing of a covered drug product, or an active pharmaceutical ingredient (API) used in the manufacture of a covered drug product. CDER and CBER staff participating in this program will benefit by gaining a better understanding of current industry practices, processes, and procedures for quality metrics programs.

CDER and CBER identified a number of establishment types that are of particular interest to their staff. The following list identifies some examples of these establishments but is not intended to be exhaustive, mutually exclusive, or to limit industry response to the notice:

- Manufacturer of brand, generic, biotechnology, APIs, and non-application product(s) marketed under the over-the-counter (OTC) monograph system, and any combination of these products;
- contract development and manufacturing organizations;
- establishments with small and large portfolios; and
- establishments with past or current product availability issues (*e.g.,* history of a drug supply issue, recall).

The Quality Metrics Site Visit Program does not supplement or replace a regulatory inspection (*e.g.,* a preapproval inspection, pre-license inspection, or a surveillance inspection).

III. Site Selection

Selection of potential facilities will be based on the priorities developed for CDER and CBER staff training, the facility's current compliance status with FDA, and in consultation with the appropriate FDA district office. All travel expenses associated with this program will be the responsibility of FDA; therefore, selection will be based on the availability of funds and resources for the fiscal year. FDA will not provide financial compensation to the pharmaceutical site as part of this program.

IV. Proposals for Participation

Companies interested in offering a site visit or learning more about this site visit program should respond by submitting a proposal directly to Tara Gooen Bizjak or Stephen Ripley (see **FOR FURTHER INFORMATION CONTACT**). To aid in FDA's site selection and planning, your proposal should include the following information:

- A contact person;
- site visit location(s);
- Facility Establishment Identifier and Data Universal Numbering System numbers, as applicable;
- maximum number of FDA staff that can be accommodated during a site visit (maximum of 10),
- a description of the development, history, and ongoing management of the quality metrics program;
- a sample agenda outlining the proposed learning objectives and associated activities for the site visit; and
- preferred dates for a quality metrics site visit.

Proposals submitted without this minimum information will not be considered.

Dated: June 25, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14006 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1772]

Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations.'' The purpose of this draft guidance is to assist sponsors in designing appropriate nonclinical studies before initiation of first-in-human (FIH) trials and through product approval. In addition, this draft guidance provides recommendations for product labeling, such as duration of contraception to minimize potential risk to a developing embryo/fetus and recommendations for lactating women to minimize potential risk to a nursing infant. This draft guidance intends to provide recommendations for nonclinical programs in a unique and challenging area of product development, provide a more consistent approach in nonclinical studies and product labeling, and reduce the conduct of nonclinical studies that are not informative for product use.

DATES: Submit either electronic or written comments on the draft guidance by August 28, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–1772 for ''Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not

in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Haleh Saber, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2117, Silver Spring, MD 20993–0002, 301–796–7550, or John Leighton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2204, Silver Spring, MD 20993–0002, 301–796–7550.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations.'' This draft guidance presents FDA's current thinking on nonclinical studies needed to support FIH studies and for approval for therapeutic radiopharmaceuticals. In this draft guidance, the term *therapeutic radiopharmaceutical* refers to a pharmaceutical that contains a radionuclide and is used in patients with cancer for the treatment or for palliation of tumor-related symptoms (*e.g.,* pain). This draft guidance discusses the following concepts: (1) Evaluation of toxicities from the ligand; (2) evaluation of radiation toxicities; and (3) information for product labeling as related to reproductive toxicity, genotoxicity, carcinogenicity, contraception, and use in lactating women.

Currently, no FDA or International Council for Harmonisation guidance addresses nonclinical studies supporting FIH trials and approval for radiopharmaceuticals for treatment of cancer. The guidance for industry entitled ''Nonclinical Evaluation of Late Radiation Toxicity of Therapeutic Radiopharmaceuticals'' (available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM079242.pdf*) describes nonclinical studies to address late radiation toxicity only. This draft guidance provides further clarification of recommendations made in that guidance for the timing and design of late radiation toxicity studies. This draft guidance intends to bring consistency in nonclinical safety assessment and in product labeling for therapeutic radiopharmaceuticals and to reduce the number of nonclinical studies that are not informative for product use.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on nonclinical studies and labeling recommendations for oncology therapeutic radiopharmaceuticals. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR 312.23(a)(8) for submitting pharmacological and toxicology information has been approved under OMB control number 0910–0014; the collection of information in 21 CFR 201.56 and 201.57 for preparing human prescription drug labeling has been approved under OMB control number 0910–0572; and the collection of information in the ''Content and Format of Labeling for Human Prescription Drug and Biological Products; Requirements for Pregnancy and Lactation Labeling'' final rule has been approved under OMB control number 0910–0624.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14055 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0793]

Sun Pharmaceutical Industries, Ltd., and Sun Pharma Global FZE; Withdrawal of Approval of Four Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** on March 14, 2018. The notice announced the voluntary withdrawal of approval of four abbreviated new drug applications (ANDAs) from two applicants, effective April 13, 2018. In particular, the notice indicated that FDA was withdrawing approval of the following ANDA after receiving a withdrawal request from Sun Pharmaceutical Industries, Ltd., c/o Sun Pharmaceutical Industries, Inc. (Sun Pharmaceutical), 2 Independence Way, Princeton, NJ 08540: ANDA 076045, Lorazepam Tablets USP, 0.5 milligram (mg), 1 mg, and 2 mg. Before withdrawal of this ANDA became effective, however, Sun Pharmaceutical informed FDA that it did not want approval of the ANDA withdrawn. Because Sun Pharmaceutical timely requested that approval of this ANDA not be withdrawn, the approval of ANDA 076045 is still in effect.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire

Ave., Bldg. 75, Rm. 1671, Silver Spring, MD 20993–0002, 240–402–7945.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Wednesday, March 14, 2018 (83 FR 11208), appearing on page 11208 in FR Doc. 2018–05120, the following correction is made:

1. On page 11208, the entry for ANDA 076045 in the table is removed.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14050 Filed 6–28–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Faculty Loan Repayment Program, OMB No. 0915–0150—Extension

AGENCY: Health Resources and Services Administration, (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 30, 2018.

ADDRESSES: Submit your comments including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Faculty Loan Repayment Program OMB No. 0915–0150—Extension.

Abstract: HRSA administers the Faculty Loan Repayment Program (FLRP). FLRP provides degree-trained health professionals from disadvantaged backgrounds based on environmental and/or economic factors the opportunity to enter into a contract with HHS in exchange for the repayment of qualifying educational loans for a minimum of 2 years of service as a full-time or part-time faculty member at eligible health professions schools.

Need and Proposed Use of the Information: The information collected will be used to evaluate applicants' eligibility to participate in FLRP and to monitor FLRP-related activities.

Likely Respondents: FLRP applicants and institutions providing employment to the applicants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications	111	1	111	1.00	111.00
Institution/Loan Repayment Employment Form *	111	1	111	1.00	111.00
Authorization to Release Information Form	111	1	111	0.25	27.75
Total	333				249.75

* Respondent for this form is the institution for the applicant.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–13955 Filed 6–28–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell and Molecular Biology.

Date: July 11–12, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Amy Kathleen Wernimont, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, Bethesda, MD 20892, 301–827–6427, *amy.wernimont@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: July 13, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Improving HIV Outcomes in Vulnerable US Communities.

Date: July 13, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: July 18, 2018.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: July 19, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Warwick Denver, 1776 Grant Street, Denver, CO 80203.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Endocrinology, Metabolism and Reproductive Biology.

Date: July 19, 2018.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gregory S. Shelness, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, Bethesda, MD 20892–7892, (301) 435–0492, *shelnessgs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory System Development and Age-Related Impairment.

Date: July 19, 2018.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–827–2549, *jdrgonova@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Macromolecular Biophysics.

Date: July 19, 2018.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Animal/Biological and Related Resources.

Date: July 19, 2018.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2022, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Opportunities for Collaborative Research at the NIH Clinical Center (U01).

Date: July 19, 2018.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrinology, Metabolism, Nutrition, and Reproductive Science.

Date: July 20, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroinflammation and Neurodegeneration.

Date: July 20, 2018.

Time: 10:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 4189, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Decision Making and Emotion Function in Aging.

Date: July 20, 2018.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Human-Animal Interaction (HAI) Research.

Date: July 23, 2018.

Time: 7:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Old Town Alexandria, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 25, 2018.

David D. Clary,

Program Analyst. Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13965 Filed 6–28–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information on the HEALing Communities Study: Developing and Testing an Integrated Approach To Address the Opioid Crisis

AGENCY: National Institutes of Health; Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to gather broad public input on the conduct of a multi-site national research effort to develop and test approaches for the systematic implementation and sustainability of an integrated set of evidence-based interventions across healthcare, behavioral health, justice systems, state and local governments, and community organizations to prevent and treat opioid misuse and Opioid Use Disorders (OUD). The goals are to decrease fatal and non-fatal overdoses, decrease the incidence of OUD and related infectious diseases (*e.g.,* Hepatitis C and HIV), increase the number of individuals receiving medication-assisted treatment (MAT), increase the proportion retained in treatment beyond 6 months, and increase the number of individuals receiving needed recovery support services.

DATES: The RFI is open for public comment for a period of 21 days. Comments must be received by July 20, 2018 to ensure consideration.

ADDRESSES: Comments must be submitted electronically to the following email address: *OpioidRFI@nida.nih.gov.*

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to Redonna K. Chandler, Ph.D., National Institute on Drug Abuse; Phone: 301–443–1470; email: *redonna.chandler@nih.gov.*

SUPPLEMENTARY INFORMATION: This RFI is for information and planning purposes only, and should not be construed as a solicitation or an obligation on the part of the federal government, the National Institutes of Health (NIH), the National Institute on Drug Abuse (NIDA), or the Substance Abuse and Mental Health Services Administration (SAMHSA). NIH does not intend to make any awards based on responses to this RFI or to otherwise pay for the preparation of any information submitted or for the government's use of such information.

Terminology: This RFI is focused on the use, misuse, abuse of opioids, and OUD. Opioids include prescription and illicit opioids, such as heroin, illicitly manufactured fentanyl, and related analogs. OUD refers to the clinical diagnosis defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5).

Problem Statement: Despite the availability of multiple effective evidence-based interventions and practices, most Americans at risk for or suffering from an OUD do not receive appropriate prevention and treatment services. Simultaneously, opioid overdose rates continue to increase.

NIDA, in partnership with SAMHSA, is exploring options for conducting a multi-site national research effort in up to three communities to develop and test approaches for the systematic implementation and sustainability of an integrated set of evidence-based interventions across healthcare, behavioral health, justice systems, state and local governments, and community organizations to prevent and treat opioid misuse and OUD. The goals are to decrease fatal and non-fatal overdoses, decrease the incidence of OUD and related infectious diseases (*e.g.,* Hepatitis C and HIV), increase the number of individuals receiving medication-assisted treatment (MAT), increase the proportion retained in treatment beyond 6 months, and increase the number of individuals receiving needed recovery support services. This research would be a part of the NIH Helping to End Addiction Long-term (HEAL) Initiative (*https://www.nih.gov/research-training/medical-research-initiatives/heal-initiative*).

Information Requested: This RFI solicits input from the extramural research community and public stakeholders. NIDA and SAMHSA especially seek input on study elements such as, but not limited to:

Study Design:

- How can ''heavily affected communities'' be defined, including geospatial/geopolitical definitions to provide consistent boundaries for a multi-site study?
- What research designs might be appropriate to accomplish the overall goals of the study?
- How can effect size be estimated and what effect size might be expected in relation to candidate outcomes: Rates of non-fatal and fatal overdose; prevalence and incidence of opioid misuse, OUD and Hepatitis C; percent of patients screened for opioid misuse and OUD and who received a brief intervention or were referred to treatment; percent of patients initiated on MAT and retained in medication treatment beyond 6 months; rates of naloxone distribution and overdose reversals; opioid analgesic and benzodiazepine prescription rates; and implementation of prevention programs?
- What baseline data should be captured, what are potential existing sources for this data, and what challenges might exist with quality of existing data?
- How long would an integrated set of evidence-based interventions need to be in place before expecting a meaningful change in outcomes, and which combination of interventions should be implemented in communities with different characteristics?
- What confounding variables need to be considered?
- What are potential threats to internal and external study validity and what strategies could be deployed to mitigate threats?
- Are there particular strategies that can help the Coordinating Center overcome barriers to the facilitation of collaboration and coordination activities across Research Centers with regard to data harmonization, collection, integration, cleaning, analyses, and creating datasets for sharing with the research community at large?

Outcomes:

- What target metrics would be feasible for outcomes? Candidate outcomes could include, but are not limited to those listed above: Rates of non-fatal and fatal overdose; prevalence and incidence of opioid misuse, OUD and Hepatitis C; percent of patients screened for opioid misuse and OUD and who received a brief intervention or were referred to treatment; percent of patients initiated on MAT and retained in medication treatment beyond 6 months; rates of naloxone distribution and overdose reversals; opioid analgesic and benzodiazepine prescription rates; and implementation of prevention programs?
- What is the best way to gather reliable data related to candidate outcomes listed above?
- What are essential interventions for an evidence-based integrated approach to opioid prevention and treatment services, including policies and practices?
- How could ''evidence-based or evidence-informed'' be defined?
- How can fidelity to an evidence-based integrated approach to opioid prevention and treatment services, including policies and practices be measured?
- What strategies and resources would be necessary, including training and technical assistance, to have meaningful penetration of the evidence-

based integrated approach to opioid prevention and treatment services in a single community?

Health Economics:

• What economic questions should be included as part of the study to inform systems and policy change?

Implementation Research:

• What implementation research questions should be included to develop best practices for replication in other communities impacted by the opioid crisis?

• What data should be collected to help develop metrics for determining the quality of an integrated approach to opioid prevention and treatment services, including policies and practices?

• Are there examples of prior implementation research studies that highlight implementation tools that can be used to replicate and scale up integrated approaches?

Infrastructure, Partnerships, Collaboration:

• What research, prevention, and treatment infrastructure and partnerships are needed to support a community-based pragmatic trial assessing the impact of an evidence-based integrated approach to opioid prevention and treatment services?

• What is the best approach to fostering collaboration and meaningful participation between state, county, and local governments; community stakeholders; medical/clinical service providers; and researchers?

• How do we construct a research initiative with the highest likelihood of having sustainable prevention and treatment services?

• What data would be of most interest to state and community partners?

Responses to this RFI are voluntary and may be submitted anonymously. Please do not include any personally identifiable or other information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in responses. Comments submitted will be compiled for discussion and shared internally with NIDA, SAMHSA, NIH program staff, and participating leadership across the Department of Health and Human Services, as appropriate. Any personal identifiers (personal names, email addresses, etc.) will be removed when responses are compiled.

This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the United States Government to provide support for any ideas identified in response to it. Please note that the United States Government will not pay for the preparation of any information submitted or for use of that information.

Dated: June 25, 2018.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2018–14031 Filed 6–28–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; T1D NIDDK Review.

Date: June 29, 2018.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–021: HIRN Consortium on Beta Cell Death and Survival Early T1D Biomarkers Discovery in Human Pancreas.

Date: July 23, 2018.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; T1D Clinical Trials Testing Current and Novel Closed Loop Systems (R01).

Date: July 24, 2018.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20817, 301–496–9010, *hoffertj@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–020: Immune System Engineering for Targeted Tolerance in Type 1 Diabetes (R01).

Date: July 25, 2018.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; SBIR Phase II Clinical Trials.

Date: July 26, 2018.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–042: NIDDK Ancillary Studies (R01).

Date: July 26, 2018.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch,

DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–022: High Resolution Exploration of the Human Islet Tissue Environment (HIRN)–HPAC.

Date: July 30, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 25, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13967 Filed 6–28–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; SBIR Contract Review.

Date: July 25, 2018.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1087, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 25, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–13966 Filed 6–28–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0025; OMB No. 1660–0040]

Agency Information Collection Activities: Proposed Collection; Comment Request; Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning this form which is used by regulated lending institutions, federal agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association. Federally regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose is of determining whether flood insurance is required and available. FEMA is responsible for maintaining the form and making it available.

DATES: Comments must be submitted on or before August 28, 2018.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2018–0025. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW, 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Bernstein, Insurance Specialist, FIMA, Marketing and Outreach Branch, 303–701–3595. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 1365 of the National Flood Insurance Act of 1968 (NFIA) (42 U.S.C. 4104b), as added by Section 528 of the National Flood Insurance Reform Act of 1994 (Pub. L. 103–325, title V), requires that FEMA develop a standard hazard determination form for recording the determination of whether a structure is located within an identified Special Flood Hazard Area and whether flood insurance is available. Regulated lending institutions, federal agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association must complete this form for any loan made, increased, extended, renewed or purchased by these entities. The requirement for federally regulated lending institutions to determine whether a building or mobile home securing a loan is located in an area having special flood hazards and whether flood insurance is available has been in effect since the enactment of the Flood Disaster Protection Act of 1973, although the use of a standard form was not required until the enactment of the Section 1365 of the NFIA. The establishment of the Standard Flood Hazard Determination form has enabled

lenders to provide consistent information.

Collection of Information

Title: Standard Flood Hazard Determination Form.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0040.

FEMA Forms: FEMA Form 086–0–32, Standard Flood Hazard Determination Form.

Abstract: This form is used by regulated lending institutions, federal agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association. Federally regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose is of determining whether flood insurance is required and available. FEMA is responsible for maintaining the form and making it available.

Affected Public: Business and other for-profit; and Individuals or Households.

Estimated Number of Respondents: 26,616,265.

Estimated Number of Responses: 26,616,265.

Estimated Total Annual Burden Hours: 8,783,367.

Estimated Total Annual Respondent Cost: $208,956,300.

Estimated Respondents' Operation and Maintenance Costs: 0.

Estimated Respondents' Capital and Start-Up Costs: 0.

Estimated Total Annual Cost to the Federal Government: 0.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Rachel Frier,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–13991 Filed 6–28–18; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0028; OMB No. 1660–0083]

Agency Information Collection Activities: Proposed Collection; Comment Request; Application for Community Disaster Loan (CDL) Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Community Disaster Loan (CDL) Program. This collection allows the government to make loans to communities that have suffered economic problems due to disasters.

DATES: Comments must be submitted on or before August 28, 2018.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2018–0028. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW, 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Martha Polanco, Assistant Program Manager, Disaster Assistance Directorate, Public Assistance Division, (202) 212–5761. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Community Disaster Loan (CDL) Program is authorized by Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended, 42 U.S.C. 5184, and implementing regulations at 44 CFR subpart K. The Assistant Administrator may make a CDL to any local government which has suffered a substantial loss of tax or other revenues as a result of a major disaster or emergency and which demonstrates a need for Federal financial assistance in order to perform its governmental functions. Local governments may indicate interest in acquiring a Community Disaster Loan by contacting their Governor's Authorized Representative. The Governor's Authorized Representative submits a letter to FEMA requesting the Community Disaster Loan Program for their State.

Collection of Information

Title: Application for Community Disaster Loan (CDL) Program.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0083.

FEMA Forms: FEMA Form 090–0–1, Certification Of Eligibility For Community Disaster Loans; FEMA Form 116–0–1, Promissory Note; FEMA Form 116–0–1A, Promissory Note; FEMA Form 116–0–1B, Promissory Note; FEMA Form 116–0–1C, Promissory Note; FEMA Form 085–0–1, Local Government Resolution—Collateral Security; FEMA Form 112–0–3C, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; And Drug-Free Workplace Requirements; FEMA Form 090–0–4, Letter of Application through the GAR.

Abstract: The loan package for the CDL Program provides Local and Tribal governments that have suffered substantial loss of tax or other revenues

as a result of a major disaster or emergency, the opportunity to obtain financial assistance in order to perform their governmental functions. The loan must be justified on the basis of need and actual expenses.

Affected Public: State, local or Tribal Government.

Estimated Number of Respondents: 144.

Estimated Number of Responses: 144.

Estimated Total Annual Burden Hours: 518.13.

Estimated Total Annual Respondent Cost: $27,761.41.

Estimated Respondents' Operation and Maintenance Costs: 0.

Estimated Respondents' Capital and Start-Up Costs: 0.

Estimated Total Annual Cost to the Federal Government: $1,012,699.66.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Rachel Frier,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–14078 Filed 6–28–18; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0013; OMB No. 1660–0008]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Elevation Certificate/Floodproofing Certificate

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before July 30, 2018.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Joycelyn Collins, Program Analyst, Flood Insurance Directorate, at (202) 212–4716 or via email at *joycelyn.collins@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on March 9, 2018 at 83 FR 10510 with a 60 day public comment period. FEMA received one comment that was supportive of the information collection. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Elevation Certificate/Floodproofing Certificate.

Type of Information Collection: Extension, without change, of a currently approved collection.

OMB Number: 1660–0008.

Form Titles and Numbers: FEMA Form 086–0–33, Elevation Certificate and FEMA Form 086–0–34, Floodproofing Certificate for Non-Residential Structures.

Abstract: The Elevation Certificate and Floodproofing Certificate are used in conjunction with the Flood Insurance Application to rate Post-Flood Insurance Rate Map (FIRM) buildings in Special Flood Hazard Areas. These forms are used for buildings constructed on or after the effective date of the initial FIRM for the community or after December 1, 1974, whichever is later.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions; Farms; State, Local or Tribal Government.

Estimated Number of Respondents: 12,359.

Estimated Number of Responses: 12,359.

Estimated Total Annual Burden Hours: 46,345.75.

Estimated Total Annual Respondent Cost: $2,065,214.10.

Estimated Respondents' Operation and Maintenance Costs: $4,325,650.00.

Estimated Respondents' Capital and Start-Up Costs: 0.

Estimated Total Annual Cost to the Federal Government: $68,061.00.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Rachel Frier,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–13992 Filed 6–28–18; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6101–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2018

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2018 and ending on March 31, 2018.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500, telephone 202–708–3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2018.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2018 through March 31, 2018. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2018) before the next report is published (the second quarter of calendar year 2018), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: June 21, 2018.

J. Paul Compton Jr.,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2018 Through March 31, 2018

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.15(a)(2).

Project/Activity: Housing Trust Fund (HTF) Allocation Plan Submission Requirement.

Nature of Requirement: The state of Nevada requested a waiver of 24 CFR 91.15(a)(2) to permit the Department to accept the state's untimely Fiscal Year (FY) 2017 HTF allocation plan submission. The regulation at 24 CFR 91.15(a)(2) states that HUD will in no event accept a HTF allocation plan that is submitted after August 16.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: The state has a severe shortage of affordable housing units for extremely low-income households. Consequently, it is important that the state receive its FY 2017 HTF funds to develop decent safe affordable housing for households at or below 30% area median income. Further, the state is developing detailed procedures to ensure that all future HTF allocation plan submissions are submitted timely.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.214(a)(6)—HOME Prohibited Activities and Fees.

Project/Activity: The city of Flint, Michigan, requested a waiver of 24 CFR 92.214(a)(6) to permit it to invest additional HOME funds in a troubled HOME-assisted project, Berridge Place, during the HOME period of affordability.

Nature of Requirement: The regulation at 24 CFR 92.214(a)(6) prohibits a participating jurisdiction from investing additional HOME funds in a project previously assisted with HOME funds during the period of affordability established in the written agreement.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: February 5, 2018.

Reason Waived: Without an additional $200,000 of HOME funds, Berridge Place is in jeopardy of default as project operating costs exceed revenue. An additional $200,000 of HOME funds will permit the project owner to pay-off existing debt and use the savings from the debt payment to fund a project replacement reserve. This waiver prevents the loss of 11 HOME-assisted units and the possible displacement of low-income residents.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The city of Salinas, California, requested a waiver of 24 CFR 92.252(d)(1) to allow use of utility allowance established by local public housing agency (PHA) for a HOME-assisted project under construction—Moon Gate Plaza Apartments.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: The HOME requirements for establishing utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements.

Project/Activity: The county of Sonoma, California, requested a waiver of 24 CFR 92.252(d)(1) to allow use of utility allowance established by local public housing agency (PHA) for a HOME-assisted project under construction—Crossroads Apartments.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.254(a)(4)—Period of Affordability.

Project/Activity: The state of Minnesota requested a waiver of 24 CFR 92.254(a)(4) to allow it to reduce the period of affordability for two HOME-assisted projects that are no longer habitable, one due to fire and the other due to structural defects. In both instances, the properties had nearly met the required compliance period.

Nature of Requirement: The regulation 24 CFR 92.252(e) requires that all HOME-assisted units remain affordable for a specified period following project completion based on the amount of HOME funds invested and type of activity.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: Without a waiver of the period of affordability, the state would be obligated to repay the HOME funds invested in the two properties. The Department determined that the state demonstrated due diligence by ensuring that the properties complied with HOME requirements during their useful lives, and the circumstances that rendered the properties uninhabitable were beyond the state's control.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 92.500(d)(2)(i)(C)—HOME Expenditure Requirement.

Project/Activity: The city of Flint, Michigan, requested a waiver of 24 CFR 92.500(d)(2)(i)(C) for its Fiscal Year 2012 HOME expenditure deadline to provide additional time to expend HOME funds for its vulnerable population.

Nature of Requirement: The regulation at 24 CFR 92.500(d)(2)(i)(C) requires a participating jurisdiction to expend its annual allocation of HOME funds within five years after HUD notifies the participating jurisdiction that HUD has executed the jurisdiction's HOME Investment Partnership Agreement.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: February 5, 2018.

Reason Waived: A waiver of the HOME expenditure deadline protects funds that HUD has agreed should be invested to make a financially-troubled HOME project, Berridge Place, sustainable for the duration of the HOME period of affordability. In addition, the waiver will ensure that needed funds are not deobligated and the city has sufficient funds to address other affordable housing needs in the city following the lead water crisis.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10170, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i), and 91.401 and 24 CFR 570.201(e)(1), 24 CFR 570.207(b)(3), and 24 CFR 570.207(b)(4).

Project/Activity: Santa Rosa, CA.

Nature of Requirement: 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i), and 91.401 and 24 CFR 570.201(e)(1), 24 CFR 570.207(b)(3), and 24 CFR 570.207(b)(4) require a 30-day public comment period prior to the implementation of a substantial amendment, limit the amount of CDBG funds used for public services to no more than 15 percent of each grant plus 15

percent of program income received, prohibit CDBG funds from being used for the new construction of housing, and prohibit the use of CDBG funds for income payments except in the case of emergency grant payments made for up to three consecutive months to a service provider, respectively. Section 105(a) enumerates the eligible Community Development Block Grant activities and (a)(8) the limitation of no more than 15 percent of each grant to be used for public services.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: Santa Rosa was heavily impacted by the wildfires that started on October 9, 2017. A Presidentially-declared disaster declaration (FEMA–DR–4344) was issued on October 10, 2017. The waiver reduces the public comment period from thirty to seven days, allows the city of Santa Rosa to determine what constitutes reasonable notice to comment on the proposed amendments to its Consolidated Plan, relaxes new housing construction and reconstruction provisions, waives the 15 percent public service cap for two years, and extends emergency grant payments for individuals for up to six consecutive months. These waived CDBG requirements allow the city to expedite recovery efforts for low and moderate income residents affected by the wildfires; pay for additional support services for affected individuals and families, including, but not limited to, food, health, employment, and case management services to help county residents impacted by the fires; use CDBG funds for new housing construction to replace affordable housing units lost as a result of the fires and destruction; and enable the city to pay for the basic daily needs of individuals and families affected by the fires on an interim basis.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–4548.

• *Regulation:* 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i), and 91.401 and 24 CFR 570.201(e)(1), 24 CFR 570.207(b)(3), and 24 CFR 570.207(b)(4).

Project/Activity: Sonoma County, CA.

Nature of Requirement: 24 CFR 91.105(c)(2) and (k) and 24 CFR 91.115(c)(2) and (i), and 91.401 and 24 CFR 570.201(e)(1), 24 CFR 570.207(b)(3), and 24 CFR 570.207(b)(4) require a 30-day public comment period prior to the implementation of a substantial amendment, limit the amount of CDBG funds used for public services to no more than 15 percent of each grant plus 15 percent of program income received, prohibit CDBG funds from being used for the new construction of housing, and prohibit the use of CDBG funds for income payments except in the case of emergency grant payments made for up to three consecutive months to a service provider, respectively.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 27, 2018.

Reason Waived: Sonoma County was heavily impacted by the wildfires and mudslides that started on October 9, 2017. A Presidentially-declared disaster declaration (FEMA–DR–4344) was issued on October 10, 2017. The waiver reduces the public comment period from thirty to seven days, allows Sonoma County to determine what constitutes reasonable notice to comment on the proposed amendments to its Consolidated Plan, relaxes new housing construction and reconstruction provisions, waives the public service cap for 2018–2019 with a ceiling of 40 percent on public service expenditures, and extends emergency grant payments to individuals for up to six consecutive months. The waiver granted will allow the county to expedite recovery efforts for low and moderate income residents affected by the wildfires and subsequent mudslides; pay for additional support services for affected individuals and families, including, but not limited to, food, health, employment, and case management services to help county residents impacted by the fires; use CDBG funds for new housing construction to replace affordable housing units lost as a result of the fires and mudslides; and enable the county to pay for the basic daily needs of individuals and families affected by the fires on an interim basis.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 402–4548.

• *Regulation:* 2 CFR 200.512(a)(1).

Project/Activity: Extension of Submission Date for Single Audit Report. The municipalities in Puerto Rico are identified below.

Nature of Requirement: The audit must be completed, and both the data collection form described in 2 CFR 200.512(b), and the reporting package described in 2 CFR 200.512(c), must be submitted to HUD within the earlier of 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period.

Granted By: Stanley Gimont, Deputy Assistant Secretary for Grant Programs.

Date Granted: See below.

Reason Waived: Hurricanes Irma and Maria caused extensive damage to Puerto Rico's infrastructure, resulting in a loss of electricity and telecommunication services for an extended period of time over much of the Commonwealth of Puerto Rico. The Office of Management and Budget (OMB) issued a memorandum on October 26, 2017, granting agencies the flexibility to allow grantees located in a county or a parish where a major disaster has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) as a result of Hurricanes Harvey, Irma and Maria ''to delay the completion and submission of the Single Audit report to twelve months beyond the normal due date.'' HUD is the cognizant agency for the municipalities identified below and has determined that it is appropriate to allow these municipalities a twelve-month extension of the Single Audit report submission requirements pursuant to the OMB memo.

Contact: Gloria Coates, Senior Community Planning and Development Specialist, Office of Community Planning and Development, Department of Housing and Urban Development, Office of Block Grant Assistance, Entitlement Communities Division, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 708–1577.

Municipalities	Date waiver granted
Arecibo	March 14, 2018.
Aguadilla	March 14, 2018.
Guayama	March 14, 2018.
Humacao	March 14, 2018.
Rio Grande	March 14, 2018.
Toa Baja	March 14, 2018.
Trujilla Alto	March 14, 2018.
Vega Baja	March 14, 2018.
Carolina	March 21, 2018.
Juana Diaz	March 21, 2018.
Toa Alta	March 21, 2018.
Yauco	March 21, 2018.

• *Regulation:* 24 CFR 570.200(h).

Project/Activity: On January 24, 2018, HUD issued CPD Notice #CPD–18–01 implementing procedures to govern the submission and review of consolidated plans and action plans for FY 2018 funding prior to the enactment of a FY 2018 HUD appropriation bill. These procedures apply to any Entitlement, Insular or Hawaii nonentitlement grantee with a program year start date prior to, or up to 60 days after, HUD's announcement of the FY 2018 formula program funding allocations for CDBG, ESG, HOME and HOPWA formula funding. Any grantee with an FY 2018 program year start date during the period starting October 1, 2017, and ending August 16, 2018, or 60 days after HUD announcement of FY 2018 allocation amounts (whichever comes first), is advised not to submit its consolidated plan/action plan until the FY 2018 formula allocations have been announced.

Nature of Requirement: The Entitlement CDBG program regulations provide for situations in which a grantee may incur costs against its CDBG grant prior to the award of its grant from HUD. Under the regulations, the effective date of a grantee's grant agreement is either the grantee's program year start date or the date that the grantee's annual action plan is received by HUD, whichever is later. This waiver allows grantees to treat the effective date of the FY 2018 program year as the grantee's program year start date or date, or the date that the grantee's annual action plan is received by HUD, whichever is *earlier.*

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 24, 2018, for effect on December 12, 2017.

Reason Waived: Under the provisions of the Notice, a grantee's action plan may not be submitted to (and thus received by) HUD until several months after the grantee's program year start date. Lengthy delays in the receipt of annual appropriations by HUD,

and implementation of the policy to delay submission of FY 2018 Action Plans, may have negative consequences for CDBG grantees that intend to incur eligible costs prior to the award of FY 2018 funding. Some activities might otherwise be interrupted while implementing these revised procedures. In addition, grantees might not otherwise be able to use CDBG funds for planning and administrative costs of administering their programs. In order to address communities' needs and to ensure that programs can continue without disturbance, this waiver will allow grantees to incur pre-award costs on a timetable comparable to that under which grantees have operated in past years. This waiver is available for use by any applicable CDBG grantee whose action plan submission is delayed past the normal submission date because of delayed enactment of FY 2018 appropriations for the Department. This waiver authority is only in effect until August 16, 2018.

Contact: Steve Johnson, Director, Entitlement Communities Division, Office of Block Grant Assistance, Office of Community and Planning Development, 451 Seventh Street SW, Room 7282, Washington, DC 20410, telephone (202) 708–1577.

• *Regulation:* 24 CFR 578.37(a)(1)(ii).

Project/Activity: HUD granted a waiver of 24 CFR 578.37(a)(1)(ii), for recipients in federally declared emergency and disaster areas within specified Continuums of Care in Texas, Louisiana, the U.S. Virgin Islands, Puerto Rico and Florida due to damages and related flooding sustained by Hurricanes Harvey, Irma, and Maria. The waiver permits rapid re-housing projects to provide up to 3 years of rental assistance to any program participants affected by the hurricanes or related flooding, including those already receiving rental assistance through a rapid re-housing project, as well as those who begin receiving rental assistance through a rapid re-housing project within two years after the date of this waiver.

Nature of Requirement: Under 24 CFR 578.37(a)(1)(ii), rental assistance provided by rapid re-housing projects is limited to short and medium terms, which permit up to 3 months of rent, and 3 to 24 months of rent, respectively. In addition, 24 CFR 578.37(a)(1)(ii)(C) requires rapid re-housing projects to limit rental assistance to no more than 24 months to a household.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 3, 2018.

Reason Waived: Waiving the 24-month cap on rapid re-housing rental assistance will assist individuals and families affected by the hurricanes and flooding, including those already receiving rental assistance, as well as those who will receive rental assistance within 2 years of the date of this waiver, to maintain stable permanent housing in another area and help them return to their hometowns, as desired, when additional permanent housing becomes available. It will also provide additional time to stabilize individuals and families in permanent housing where vacancy rates are extraordinarily low due to the hurricanes and flooding. Experience with prior disasters has shown us some program participants need additional months of rental assistance to identify and stabilize in housing of their choice, which can mean moving elsewhere until they are able to return to their hometowns.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.3 and 24 CFR 578.51(l)(1).

Project/Activity: HUD granted a waiver of 24 CFR 578.3 and 24 CFR 578.51(l)(1) for recipients in federally declared emergency and disaster areas within specified Continuums of Care in Texas, Louisiana, the U.S. Virgin Islands, Puerto Rico and Florida due to damages and related flooding sustained by Hurricanes Harvey, Irma, and Maria. The waiver permits permanent housing assistance, including both rapid re-housing and permanent supportive housing, to be provided to a program participant who enters into a lease with an initial term of less than one year, so long as the program participant enters the lease during the next two years (beginning on the date of this waiver), the initial term of the lease is for more than one month, the lease is renewable for terms that are a minimum of one month long, and the lease is only terminable for cause.

Nature of Requirement: The ''permanent housing'' definition at 24 CFR 578.3 and the lease requirement for permanent housing rental assistance at 24 CFR 578.51(l)(1) require program participants to have a lease with an initial term of at least one year, which is renewable for terms that are a minimum of one month long and is terminable only for cause.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 3, 2018.

Reason Waived: Waiving these provisions will allow program participants residing in affected permanent supportive housing and rapid re-housing units to enter into leases that have an initial term of less than one year, so long as the leases have an initial term of more than one month, are renewable for terms that are a minimum of one month long and are only terminable for cause. While some program participants desire to identify new housing, many program participants displaced during the hurricanes and flooding desire to return to their original permanent housing units when repairs are completed because of proximity to schools and access to public transportation and services. Experience with prior disasters has shown that waiving the one-year lease requirement will improve the permanent housing options available to program participants.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 578.49(b)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.49(b)(2) for recipients in federally declared emergency and disaster areas within specified Continuums of Care in Texas, Louisiana, the U.S. Virgin Islands, Puerto Rico and Florida due to damages and related flooding sustained by Hurricanes Harvey, Irma, and Maria. The FMR restriction in 24 CFR 578.49(b)(2) is waived for any rent amount that takes effect during the two-year period beginning on the date of this waiver. Affected recipients and subrecipients must still meet the rent standards in 24 CFR 578.49(b)(2) when leasing funds are used for individual housing units—the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services.

Nature of Requirement: 24 CFR 578.49(b)(2) provides that when leasing funds are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units, the rent must not exceed rents currently being charged for comparable units, and the rent paid must not exceed HUD-determined fair market rents.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 3, 2018.

Reason Waived: Waiving this provision will allow recipients and subrecipients more flexibility in identifying housing options for program participants in the designated areas under FEMA–DR–4332, FEMA–EM–3382, FEMA–DR–4335, FEMA–DR–4336, FEMA–DR–4337, FEMA–DR–4339, or FEMA–DR–4340. The rental markets in areas impacted by disasters are often more expensive after disasters due to decreased housing stock and increased rents. These more expensive rents are not reflected in the HUD-determined FMRs.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

• *Regulation:* 24 CFR 578.53(e)(2).

Project/Activity: HUD granted a waiver of 24 CFR 578.53(e)(2) for recipients in federally declared emergency and disaster areas within specified Continuums of Care in Texas, Louisiana, the U.S. Virgin Islands, Puerto Rico and Florida due to damages and related flooding sustained by Hurricanes Harvey, Irma, and Maria. The waiver permits recipients to use supportive services funds for reasonable moving costs to move current program participants as well as anyone who becomes a program participant in the designated areas in FEMA–DR–4332, FEMA–EM–3382, FEMA–DR–4335, FEMA–DR–4336, FEMA–DR–4337, FEMA–DR–4339, or FEMA–DR–4340 more than once within two years from the date of the waiver.

Nature of Requirement: 24 CFR 578.53(e)(2) allows recipients of supportive services funds to provide reasonable moving assistance, including truck rental and hiring

a moving company, only one time per program participant.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 3, 2018.

Reason Waived: Waiving this provision will permit recipients to pay for reasonable moving costs for program participants more than once and will assist program participants affected by hurricanes and flooding as well as those who become homeless in areas impacted by the flooding within two years of the date of this waiver to stabilize in housing locations of their choice. Many current program participants received assistance moving into their assisted units prior to being displaced by the hurricanes and flooding and experience with prior disasters has shown us some participants will need additional assistance moving to a new unit while others will need assistance moving back to their original units after repairs are completed. Further, until the housing market stabilizes, experience has shown many program participants will need to move more than once during their participation in a program to find a unit that best meets their needs.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone (202) 708–4300.

• *Regulation:* 24 CFR 576.106(d)(1).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(d)(1) to the State of Arizona. The waiver allows the state's subrecipient, U.S. Veterans Initiative, to provide rapid re-housing rental assistance in Yavapai County, AZ for units for which the total rent exceeds the Fair Market Rent (FMR) established by HUD, as provided under 24 CFR part 888. The FMR restriction is waived for rents up to 110 percent of the FMR that are owed after the date of the waiver memorandum by individuals or families who begin receiving ESG rapid re-housing rental assistance during the one-year period beginning on the date of the waiver memorandum (January 3, 2018). However, the affected recipients and their subrecipients must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard.

Nature of Requirement: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: January 3, 2018.

Reason Waived: HUD granted the waiver to increase housing options for ESG program participants in Yavapai County, AZ being assisted by the State of Arizona's subrecipient, U.S. Veterans Initiative. Specifically, HUD determined that the rental vacancy rate in Yavapai County, AZ was very low, and the current FMRs did not reflect the actual rents being listed in the area, and U.S. Vets was experiencing difficulty providing much-needed short- and medium-term rapid re-housing rental assistance to eligible participants.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 576.106(d)(1).

Project/Activity: HUD granted a waiver of 24 CFR 576.106(d)(1) to Sonoma County, California, which was included in disaster declaration FEMA–4344–DR. The waiver allows the county and its subrecipients to provide rental assistance for units for which the total rent exceeds the Fair Market Rent (FMR) established by HUD, as provided under 24 CFR part 888. The FMR restriction is waived for any rent amount that takes effect during the two-year period beginning on the date of the waiver memorandum (March 27, 2018) for any individual or family who is renting or executes a lease for a unit in the declared-disaster area. However, the affected recipients and their subrecipients must still ensure that the units in which ESG assistance is provided to these individuals and families meet the rent reasonableness standard.

Nature of Requirement: Under 24 CFR 576.106(d)(1), rental assistance cannot be provided unless the total rent is equal to or less than the FMR established by HUD, as provided under 24 CFR part 888, and complies with HUD's standard of rent reasonableness, as established under 24 CFR 982.507.

Granted By: Neal Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 27, 2018.

Reason Waived: HUD granted the waiver to expedite efforts to identify suitable housing units in the declared-disaster area for rent to ESG beneficiaries and ESG-eligible families that have been affected by the wildfires, and to provide assistance to families in the declared-disaster area that must rent units at rates that exceed the FMR. Specifically, HUD determined that the rental vacancy rate in areas affected by the wildfires is extraordinarily low, and waiving the FMR restriction will make more units available to individuals and families in need of permanent housing.

Contact: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7262, Washington, DC 20410, telephone number (202) 708–4300.

• *Regulation:* 24 CFR 574.320(a)(2).

Project/Activity: Santa Rosa, California HOPWA Program.

Nature of Requirement: The regulation states that the grantee must establish rent standards for its tenant-based rental assistance (TBRA) programs based on Fair Market Rent (FMR). Generally, the TBRA payment may not exceed the difference between the rent standard and 30 percent of the family's adjusted income.

Granted By: Neal J. Rackleff, Assistant Secretary for Community Planning and Development.

Date Granted: March 19, 2018.

Reason Waived: This waiver of the FMR rent standard limit permits the HOPWA grantee to establish rent standards, by unit size, that are reasonable and based upon rents being charged for comparable unassisted units in the area, taking into account the location, size, type, quality, amenities, facilities, management and maintenance of each unit. The grantee, however, is required to ensure the reasonableness of rent charged for a unit in accordance with 24 CFR 574.320(a)(3).

This waiver will expedite efforts to identify suitable housing units in the declared-disaster area (see FEMA–DR–4344) for rent to HOPWA beneficiaries and HOPWA-eligible families that have been affected by the wildfires, and to provide assistance to families in the declared-disaster area that must rent units at rates that exceed the HOPWA grantee's normal rent standard as calculated in accordance with 24 CFR 574.320(a)(2).

Contact: Claire Donze, Management Analyst, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7248, Washington, DC 20410, telephone (202) 402–2365.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* Section 2.1.9 of Mortgagee Letter 2011–22.

Project/Activity: Partial Waiver of the provisions of Section 2.1.9 of Mortgagee Letter 2011–22: Attachment 1: Of the Condominium Project Approval and Processing Guide pertaining to master/blanket hazard, flood, liability and other insurance requirements for the following condominium projects or housing developments that otherwise would not qualify for FHA insurance to be eligible for FHA insurance:

▪ *Manufactured Housing Condominium Projects* (MHCPs), which are detached manufactured homes subject to a condominium management structure, where all the land is owned commonly by all the owners in the development.

▪ *Detached Condominium Housing Projects* (DCHPs), where the land underneath the homes is subject to a long-term leasehold interest or owned by the Homeowners Association itself.

▪ *Common Interest Housing Developments* (CIHDs), which consists of multiple buildings, typically with 2–4 units in each building, and the units are structured with various ownership interests.

Nature of Requirement: Section 2.1.9 of Mortgagee Letter 2011–22: Attachment 1 of the Condominium Project Approval and

Processing Guide requires that the Homeowners Association, and not the unit owner, obtain hazard, flood, liability, and other insurance. The partial waiver continues an existing waiver, which allows certain types of condominium projects and housing developments to continue their approval and where required by condo legal documents, allow individual unit owners, instead of the Homeowner Associations to be responsible for obtaining insurance.

Granted By: Dana T. Wade, General Deputy Assistant Secretary for Housing.

Date Granted: February 7, 2018.

Reason Waived: Without the partial waiver, MCHPs, DCHPs, and CIHDs condominium projects are ineligible for initial FHA approval or recertification and the ineligibility substantially reduces the available affordable housing stock. The risk to the Mutual Mortgage Insurance fund associated with the property insurance coverage in financing an individual unit within these projects is not greater than a unit within a subdivision, planned unit development or single family home.

Contact: Elissa O. Saunders, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9278, Washington, DC 20410–8000, telephone (202) 402–2378.

• *Regulation:* 24 CFR 200.73 (c).

Project/Activity: Riverside Homes, Project Number TBD, Minneapolis, Minnesota. Dougherty Mortgage LLC have applied to HUD for mortgage insurance under Section 221(d) program to substantially rehabilitate Riverside Homes property as a single property.

Nature of Requirement: The 24 CFR part 200.73(c), which states that a site must contain no less than 5 rental dwelling units. Section 3.1.O.l.CC of the MAP Guide permits a project with two or more contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity.

Granted By: Dana T. Wade, General Deputy Assistant Secretary for Housing.

Date Granted: January 24, 2018.

Reason Waived: The waiver was granted to allow Riverside Homes as a single project since its meet HUD's goal of preserving and maintaining affordable rental housing for low income families. The property consists of 191 units, of which 103 are covered by Project-Based Section 8 HAP contracts. There are 68 buildings that have less than five units; 10 of which are non-contiguous. In 1999, the Riverside Homes properties were consolidated into one project and all 74 buildings were acquired by the current owner. This is an affordable multifamily property consisting of 74 townhome, duplex and triplex buildings located in Cedar-Riverside neighborhood of Minneapolis, Minnesota. The borrower will obtain new 20-year HAP contract as part of this transaction and is seeking to consolidate the 103 units covered into one HAP contract.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410, telephone (202) 402–5693.

• *Regulation:* 24 CFR 200.73(c).

Project/Activity: Sterling Green Village Homes, FHA Project Number 114–11445, Channelview, Harris County, Texas. The owner and the proposed lender, AGM Financial Services, Inc. (''AGM) have applied to HUD for mortgage insurance under Section 223(f) program to refinance Sterling Green Village property as a single project.

Nature of Requirement: The 24 CFR part 200.73(c) which, states that a site must contain no less than 5 rental dwelling units. Section 3.1.O.l.CC of the MAP Guide permits a project with two or more contiguous parcels of land when the parcels comprise one marketable, manageable real estate entity.

Granted By: Dana T. Wade, General Deputy Assistant Secretary for Housing.

Date Granted: March 8, 2018.

Reason Waived: The waiver was granted to allow Sterling Green Village Homes as a single project since its meet HUD's goal of preserving and maintaining affordable rental housing for low income families. The property consists of 150 one and two-story single-family detached rental units built on several non-contiguous parcels of land scattered across several blocks in the Sterling Green Residential Subdivision. The 16.34-acre property was developed in 1996 with 9% low-income housing tax credits and underwent renovation in 2014. The 150 rental units are in clusters across the subdivision on several parcels of land of varying sizes. There are 2 parcels that contain less than 5 units each; specifically, one parcel consists of 2 units and the other consists of 4 units. The property is managed and operated under one Management Office.

Contact: Patricia M. Burke, Acting Director, Office of Multifamily Production, HTD, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6130, Washington, DC 20410–8000, telephone (202) 402–5693.

Regulation: 24 CFR 207.251(c), 207.258(b)(2), and 207.258(b)(5)(ii).

Project/Activity: Morehead Memorial Hospital, FHA Project Number 053–13010, Eden, North Carolina.

Nature of Requirement: 24 CFR 207.251(c), 207.258(b)(2), and 207.258(b)(5)(ii) require that the lender, Berkadia., have a first lien on real estate in order for FHA to accept an assignment and pay a mortgage insurance claim.

Granted By: Dana T. Wade, General Deputy Assistant Secretary for Housing.

Date Granted: March 13, 2018.

Reason Waived: A waiver was granted to enable Berkadia to successfully apply for mortgage insurance benefits. At the time the loan went into default, Berkadia held a mortgage that was secured by a first lien on real estate. Berkadia met the statutory requirements for claim payment, but before the claim could be processed, the Bankruptcy Court changed the nature of the first lien security for the insured mortgage such that Berkadia could not complete the assignment of a real estate lien.

Specifically, according to the Bankruptcy Court's Order Authorizing and Approving the Sale, following the Section 363 sale, the Bankruptcy Court ordered that all liens, encumbrances, and other interests attach to the proceeds of the sale in the order of their priority, with the same validity, extent, force and effect that they had as of the closing date. The mortgage loan remains in default, and despite the sale of the hospital, the debt remains outstanding. Berkadia retained a first lien priority status to the sales proceeds and granting a waiver will allow Berkadia to file a claim in exchange for the assignment of the security to HUD.

Contact: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room WOC, Washington, DC 20410, telephone (202) 402–5684.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Lakeshore Woods Assisted Living Facility, FHA Project Number 044–22092, is an Assisted Living/Memory Care/Traumatic Brain Injury facility. The facility does not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project is located in Fort Gratiot, Michigan.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Dana T. Wade, General Assistant Secretary for Housing.

Date Granted: January 30, 2018.

Reason Waived: The project currently has a resident to shower ratio of 8:1, with a total of 6:1 after modifications to be funded from the FHA financing are complete. The memory care and traumatic brain injury residents require assistance with bathing. These residents are housed in units in a secure, lock-down area, with a half-bathroom each and access to the shower rooms through a hallway. The project meets the State of Michigan's licensing requirements for bathing and toileting facilities.

Contact: Vance T. Morris, Operations Manager, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 2337, Washington, DC 20401, telephone (202) 402–2419.

Regulation: 24 CFR 232.7.

Project/Activity: Cross Healthcare, Assisted Living/Memory Care Facility, FHA Project Number 124–22033 is an assisted living/memory care scattered site project located on three separate parcels, with seven buildings. A number of the buildings do not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project is located in Idaho Springs, Idaho.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Dana T. Wade, General Assistant Secretary for Housing.

Date Granted: February 21, 2018.

Reason Waived: The project is for memory care, all rooms have half-bathrooms and the access to the showers are in a hallway in a

secure lock-down area. The resident to shower/bath ratio is as follows: Parcel #1: 5:1; Parcel #2: 6:1; Parcel #3: 8:1; For Parcel #3, one additional bathroom will be added to both buildings as a part of the financing, resulting in a 5:1 ratio. The memory care residents require assistance with bathing. The project meets the State of Idaho's licensing requirements for bathing and toileting facilities.

Contact: Vance T. Morris, Operations Manager, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 2337, Washington, DC 20401, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Carrington Manor Assisted Living Facility, FHA Project Number 075–22140 is an assisted living/memory care facility. The facility does not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project is located in Green Bay, Wisconsin.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Dana T. Wade, General Assistant Secretary for Housing.

Date Granted: March 1, 2018.

Reason Waived: The project is a two story facility, serving memory care residents on the first floor. On the memory care floor, the, the resident to shower ratio is 10:1. All rooms have half-bathrooms and the access to the showers is through a hallway in a secure, lock-down area. The memory care residents require assistance with bathing. The project meets the State of Wisconsin's licensing requirements for bathing and toileting facilities.

Contact: Vance T. Morris, Operations Manager, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 2337, Washington, DC 20401, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Fair Oaks Estates Assisted Living Facility, FHA Project Number 136–22062 is an assisted living/memory care facility. The facility does not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project is located in Carmichael, California.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Dana T. Wade, General Assistant Secretary for Housing.

Date Granted: March 1, 2018.

Reason Waived: The project is a single-story assisted living facility, serving memory care residents in a secured area of the building. In the memory care section, there are two shower rooms to accommodate twenty memory care residents, or a resident to shower ratio of 10:1. All of these rooms have half-bathroom and access to the showers is through a hallway in a secure lock-down area. The memory care residents require assistance with bathing. The project meets the State of California's licensing requirements for bathing and toileting facilities.

Contact: Vance T. Morris, Operations Manager, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 2337, Washington, DC 20401, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Marla Vista Manor Assisted Living Facility, FHA Project Number 075–22142 is an assisted living/memory care facility. The facility does not meet the requirements of 24 CFR 232.7 ''Bathroom'' of FHA's regulations. The project is located in Green Bay, Wisconsin.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Dana T. Wade, General Assistant Secretary for Housing.

Date Granted: March 1, 2018.

Reason Waived: The project is a single story facility, consisting of two attached buildings, one of which serves memory care residents. In the memory care building, the, the resident to shower ratio is 10:1. All rooms have half-bathrooms and the access to the showers is through a hallway in a secure, lock-down area. The memory care residents require assistance with bathing. The project meets the State of Wisconsin's licensing requirements for bathing and toileting facilities.

Contact: Vance T. Morris, Operations Manager, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 2337, Washington, DC 20401, telephone (202) 402–2419.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Palacios Housing Authority (TX378).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 3, 2018.

Reason Waived: The Palacios Housing Authority (HA) requested ''Relief from HUD Requirements Available to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma and Future Natural Disasters Where Major Disaster Declarations Might Be Issued in 2017,'' FR–6050–N–01 (October 6, 2017). The HA is recovering from damages related to Hurricane Harvey and located in Category C of the applicable Major Disaster Declaration. The HA serves Housing Choice Voucher Families in Palacios and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Key West (FL013).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 3, 2018.

Reason Waived: The HA requested ''Relief from HUD Requirements Available to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma and Future Natural Disasters Where Major Disaster Declarations Might Be Issued in 2017,'' FR–6050–N–01 (October 6, 2017). The HA is recovering from damages related to Hurricane Irma and located in Category B of the applicable Major Disaster Declaration. The HA serves Housing Choice Voucher Families in Key West and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Monroe County Housing Authority (FL144).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine

months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 3, 2018.

Reason Waived: The HA requested ''Relief from HUD Requirements Available to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma and Future Natural Disasters Where Major Disaster Declarations Might Be Issued in 2017,'' FR–6050–N–01 (October 6, 2017). The HA is recovering from damages related to Hurricane Irma and located in Category B of the applicable Major Disaster Declaration. The HA serves Housing Choice Voucher Families in Monroe County and Key West, and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Municipality of Coamo (RQ042).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 8, 2018.

Reason Waived: The Municipality requested ''Relief from HUD Requirements Available to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma and Future Natural Disasters Where Major Disaster Declarations Might Be Issued in 2017,'' FR–6050–N–01 (October 6, 2017). The Municipality is recovering from damages related to Hurricane Maria and located in Category C of the applicable Major Disaster Declaration. The Municipality serves Housing Choice Voucher Families in Coamo and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the Municipality is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Municipality of Vega Alta (RQ056).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 8, 2018.

Reason Waived: The Municipality requested ''Relief from HUD Requirements Available to PHAs to Assist with Recovery and Relief Efforts on Behalf of Families Affected by Hurricanes Harvey, Irma and Future Natural Disasters Where Major Disaster Declarations Might Be Issued in 2017,'' FR–6050–N–01 (October 6, 2017). The Municipality is recovering from damages related to Hurricane Maria and located in Category C of the applicable Major Disaster Declaration. The Municipality serves Housing Choice Voucher Families in Vega Alta and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the Municipality is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Ottumwa Housing Authority (IA004).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 10, 2018.

Reason Waived: The HA requested an extension to submit its FYE March 31, 2017, audited financial information. The HAs Board had cancelled the Auditor contract due to prior audit contained inconsistencies. A new auditor was contractor was selected, effective December 1, 2017. The HA was granted until February 18, 2018, to submit its audited financial information to the Department. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Municipality of San Lorenzo (RQ037).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 9, 2018.

Reason Waived: The Municipality neglected to select Section 3: B to be waived from the financial filing and reporting compliances pertained in FR–6050–N–01 (October 6, 2017). The Municipality is recovering from damages related to Hurricane Irma and located in Category C of the applicable Major Disaster Declaration. The Municipality serves Housing Choice Voucher Families in Puerto Rico and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR 5.801(c) and 24 CFR 5.801(d)(1).

Project/Activity: Municipality of Juana Diaz (RQ038).

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 9, 2018.

Reason Waived: The Municipality neglected to select Section 3: B to be waived from the financial filing and reporting compliances, pertained in FR–6050–N–01 (October 6, 2017). The Municipality is recovering from damages related to Hurricane Irma and located in Category C of the applicable Major Disaster Declaration. The

Municipality serves Housing Choice Voucher Families in Puerto Rico and will use the requested flexibilities to better assist families displaced by the recent natural disasters. The audited financial approval only permits the extension for filing. This FASS audited financial submission extension does not apply to Single Audit submissions to the Federal Audit Clearinghouse; the HA is required to meet the Single Audit due date.

Contact: Dee Ann R. Walker, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410, telephone (202) 475–7908.

• *Regulation:* 24 CFR Section 985.101(a).

Project/Activity: Port Lavaca Housing Authority (PLHA) of Port Lavaca, TX. The PLHA requested a waiver regarding submittal of its 2017 Section Eight Management Assessment Program (SEMAP) due to being named a Major Disaster Declaration on August 25, 2017 within four days of the SEMAP due date.

Nature of Requirement: 24 CFR Section 985.101(a) states that a public housing agency must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year of June 30th.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 20, 2018.

Reason Waived: Due to the Major Disaster Declaration, the PLHA was unable to submit its SEMAP certification on time. The PLHA will carry over its SEMAP score from fiscal year 2016.

Contact: Becky Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR Sections 983.301(f)(2)(ii) and 982.517.

Project/Activity: County of Hawaii (CH) of Hilo, Hawaii. The CH requested a waiver regarding the use of a project-specific utility allowance schedule due to energy efficient appliances and water systems. Higher utility allowances would be wasteful.

Nature of Requirement: 24 CFR Section 983.301(f)(2)(ii) provides that the same utility allowance in the tenant-based voucher program must be used for the project-based voucher program. Section 982.517 provides that the utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy conservative households that occupy housing of similar size and type in the same locality.

Granted By: Dominique Blom, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 2018.

Reason Waived: This regulation was waived as a cost savings measure for four projects due to their energy conservation measures.

Contact: Becky Primeaux, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4210, Washington, DC 20410, telephone (202) 708–0477.

[FR Doc. 2018–14082 Filed 6–28–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–32]

Proposed Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors Federal Housing Administration (FHA) Healthcare Facility Documents; Re-Opening of Comment Period

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: On April 10, 2018, HUD published a **Federal Register** notice advising the public it had submitted the subject proposed information collection to the Office of Management and Budget (OMB) for review and allowing for 30 days of public comment, in accordance with the Paperwork Reduction Act. The purpose of this notice is to re-open the comment period for an additional 15 calendar days. There have been no changes made to the posted documents since the April 10, 2018 notice; however, HUD has been made aware that not all submissions were able to be transmitted, and thus is requesting that all commenters please resubmit their comments to the address provided in this notice. If the submitter has made any changes to their comments from what was initially submitted by the May 10, 2018 closing date, please indicate clearly what those new additions or changes include.

DATES: *Comments Due Date:* July 16, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette.Pollard@hud.gov;* or fax: 202–402–3400.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: On April 10, 2018, at 83 FR 15396, HUD published a **Federal Register** notice advising the public it had submitted the proposed information collection requirement described in the notice to the Office of Management and Budget (OMB) for review and allowing for 30 days of public comment, in accordance with the Paperwork Reduction Act. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 19, 2018, at 82 FR 23058. The public comment period on the April 10, 2018, notice closed on May 10, 2018. HUD has been made aware that, due to technical issues, not all submissions were able to be transmitted. Accordingly, HUD is re-opening the public comment period for an additional 15 calendar days. To ensure consideration of their comments, submitters on the April 10, 2018, notices should resubmit their comments to the address provided in this notice. If the submitter has made any changes to their comments from what was initially submitted by the May 10, 2018, closing date, please indicate clearly what those new additions or changes include.

For the convenience of interested persons, HUD is republishing below the description of the proposed information collection contained in the April 10, 2018, notice. There have been no changes made to the posted documents since the April 10, 2018 notice.

A. Overview of Information Collection

Title of Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors, Federal Housing Administration (FHA) Healthcare Facility Documents: Proposed Revisions and Updates of Information Collection.

OMB Approval Number: 2502–0605.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9001–ORCF, HUD–9002–ORCF, HUD–9003–ORCF, HUD–9004–ORCF, HUD–9005–ORCF, HUD–9005a–ORCF, HUD–9006–ORCF, HUD–9007–ORCF, HUD–9007a–ORCF, HUD–9009–ORCF, HUD–90010–ORCF, HUD–90011–ORCF, HUD–9444–ORCF, HUD–90012–ORCF, HUD–90013–ORCF,

HUD–90014–ORCF, HUD–90015–ORCF, HUD–90016–ORCF, HUD–90017–ORCF, HUD–90018–ORCF, HUD–90021–ORCF, HUD–9442–ORCF, HUD–90023–ORCF, HUD–91123–ORCF, HUD–91124–ORCF, HUD–91125–ORCF, HUD–91127–ORCF, HUD–91129–ORCF, HUD–92328–ORCF, HUD–92403–ORCF, HUD–92408–ORCF, HUD–92415–ORCF, HUD–92437–ORCF, HUD–92441–ORCF, HUD–92441a–ORCF, HUD–92442–ORCF, HUD–92448–ORCF, HUD–92450–ORCF, HUD–92452–ORCF, HUD–92452A–ORCF, HUD–92455–ORCF, HUD–92456–ORCF, HUD–92479–ORCF, HUD–92485–ORCF, HUD–92554–ORCF, HUD–93305–ORCF, HUD–95379–ORCF, HUD–2–ORCF, HUD–935.2D–ORCF, HUD–941–ORCF, HUD–9445–ORCF, HUD–9839–ORCF, HUD–90022–ORCF, HUD–90024–ORCF, HUD–91116–ORCF, HUD–91126–ORCF, HUD–91130–ORCF, HUD–92000–ORCF, HUD–92264a–ORCF, HUD–92434–ORCF, HUD–90020–ORCF, HUD–92322–ORCF, HUD–92211–ORCF, HUD–92331–ORCF, HUD–92333–ORCF, HUD–92334–ORCF, HUD–92335–ORCF, HUD–92336–ORCF, HUD–92337–ORCF, HUD–92339–ORCF, HUD–92340–ORCF, HUD–92341–ORCF, HUD–92342–ORCF, HUD–92343–ORCF, HUD–2205A–ORCF, HUD–91110–ORCF, HUD–91111–ORCF, HUD–91112–ORCF, HUD–91118–ORCF, HUD–91710–ORCF, HUD–92023–ORCF, HUD–92070–ORCF, HUD–92071–ORCF, HUD–92223–ORCF, HUD–92323–ORCF, HUD–92324–ORCF, HUD–92330–ORCF, HUD–92330A–ORCF, HUD–92420–ORCF, HUD–92435–ORCF, HUD–92466–ORCF, HUD–92466A–ORCF, HUD–92468–ORCF, HUD–94000–ORCF, HUD–94000–ORCF–ADD, HUD–94000B–ORCF, HUD–94001–ORCF, HUD–94001–ORCF–RI, HUD–9443–ORCF, HUD–91071–ORCF, HUD–91128–ORCF, HUD–92412–ORCF, HUD–92414–ORCF, HUD–92464–ORCF, HUD–92476–ORCF, HUD–92476B–ORCF, HUD–92476C–ORCF, HUD–91117–ORCF, HUD–91725–ORCF, HUD–91725–INST–ORCF, HUD–91725–CERT–ORCF, HUD–92325–ORCF, HUD–92327–ORCF, HUD–1044–D–ORCF, HUD–2537–ORCF, HUD–2747–ORCF, HUD–9250–ORCF, HUD–9807–ORCF, HUD–90019–ORCF, HUD–90029–ORCF, HUD–90030–ORCF, HUD–90031–ORCF, HUD–90032–ORCF, HUD–90033–ORCF, HUD–92080–ORCF, HUD–92117–ORCF, HUD–92228–ORCF, HUD–92266–ORCF, HUD–92266A–ORCF, HUD–92266B–ORCF, HUD–92266C–ORCF, HUD–92417–ORCF, HUD–93332–ORCF, HUD–93333–ORCF, HUD–93334–ORCF, HUD–93335–ORCF, HUD–93479–ORCF, HUD–93480–ORCF, HUD–93481–ORCF, HUD–93486–ORCF, HUD–91116A–ORCF, HUD–92211A–ORCF, HUD–92323A–ORCF, HUD–92324A–ORCF, HUD–92333A–ORCF, HUD–92334A–ORCF, HUD–92338–ORCF, HUD–92340A–ORCF, HUD–92434A–ORCF, HUD–92441B–ORCF, HUD–92467–ORCF, HUD–92467A–ORCF, HUD–94000A–ORCF, HUD–94001A–ORCF

Description of the need for the information and proposed use: The issuance of this notice is modeled on the public review and input process that HUD utilized in the establishment of the healthcare facility documents for Section 232 of the National Housing Act (Section 232) program. On March 14, 2013, at 78 FR 16279, after solicitation of comment, HUD published in the **Federal Register** a notice that announced the approval of the healthcare facility documents under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) and an assignment of a control number, 2502–0605, by the Office of Management and Budget (OMB). The final collection received a 12-month approval. Following OMB approval, on February 17, 2014, at 79 FR 11114, HUD solicited additional comment before seeking a 36-month approval. After the appropriate comment and response periods, the healthcare facility documents were approved for a 36-month renewal, as of June 30, 2014, with an expiration of June 2017. As required by 5 CFR 1320.8(d)(1) and consistent with HUD's process utilized when establishing the healthcare facility documents, HUD is soliciting comments from members of the public and interested parties on the renewal of the revised healthcare facility documents. The healthcare facility documents include 156 documents going through the PRA process and available for review at: *www.hud.gov/232comments.* All of the documents that are the subject of this notice are also listed above. All documents are presented online in redline/strikeout format, so that the reviewer can see the changes proposed to be made to the documents. A majority of the documents are being renewed, and some include edits that were made to address changes in policies in recent years or to address inconsistencies across documents and other Program Obligations (*i.e.* the Section 232 Handbook 4232.1). The collection also includes new additions to fold in tools previously only found in the Multifamily Housing document collections, as well as to create consistent formats for submitting information to Office Residential Care Facilities (ORCF) that was not previously captured in the 2014 document collection, but that is required by ORCF. A few obsolete documents are being removed as well. These include resources that are no longer relevant to ORCF or duplicate information already found in other documents. An example would include documents specifically related to ''Blended Rate'' transactions. ORCF updated its policies after determining that, consistent with FHA Multifamily Housing's approach, an otherwise eligible transaction could come within either the Section 223(f) criteria or the Section 232 Substantial Rehabilitation criteria and that, therefore, a blending of the loan-to-value criteria of those two programs is not necessary.

A brief summary of the more significant changes per documentation category is provided below.

- Lender Narratives—The edits consist primarily of changes to remove program guidance from the narratives and to incorporate updated underwriting standards specific to, for example, special use facilities.
- Consolidated Certifications—The changes consist of streamlining the form and revising language to incorporate the changed policy in the new previous participation regulation with new definitions such as Controlling Participant.
- Construction documents—Several documents are proposed that will replace the current versions of the Multifamily forms still in use, such as a new Borrower Certification for Early Start/Early Commencement of Construction projects.
- Underwriting documents—A new form was added—New Fair Housing Marketing Plan document—which provides the Affirmative Fair Housing Marketing Plan Requirements. ORCF removed one obsolete document (Agreement for Payment of Real Property Taxes) that is more specific to multifamily housing, and not relevant to healthcare facilities, as well as the Certificate of Need for Health Facilities and Schedule of Facilities Owned, Operated or Managed, which both contained duplicative information provided in other documents. The new Affirmative Fair Housing Marketing Plans (AFHMPs) was vetted with Fair Housing and Equal Opportunity (FHEO); other HUD programs had unique AFHMPs for their programs, and this new form is meant to accomplish the same for healthcare facilities. Appraisal information will also, be collected via a new spreadsheet that is similar to a collection method used by the multifamily housing ''wheelbarrow''.

• Accounts Receivable (AR) documents—Edits include changes made to the Inter-creditor Agreement form to address an ongoing issue of how operators should disclose any cross-defaults between the AR loan and the HUD loan.

• Master Lease documents—Changes include adding two new forms: Termination and Release of Cross-Default Guaranty of Subtenants—Proposed and Amendment to HUD Master Lease (Partial Termination and Release)—Proposed to reflect the 232 Handbook policy related to a release of a project from a master lease.

• Closing documents—Edits were made to the Surplus Cash Note and Subordination Agreement—(Financing) to restrict distributions when there is secondary financing. Security Instrument/Mortgage Deed Instrument/Mortgage Deed of Trust to reflect Multifamily's form and reduces the need to amend the document when the Regulatory Agreement—Borrower paragraph 38 is changed. New residential care facilities versions of Certificate of Actual Cost as well as a Rider to Security Instrument—LIHTC—were incorporated into the collection to replace Multifamily versions still in use which did not reflect ORCF policy.

• Regulatory Agreement for Fire Safety—A new Regulatory Agreement for Fire Safety projects and a Management Agreement Addendum, as well as formalization of a Lender Certification for Insurance Coverage, to incorporate current samples already in place was added to the documentation collection.

• Escrow documents—New proposed escrow forms for long-term debt service reserves and Off-Site Facilities were also added.

• Asset Management documents—Change of participant application documents were revised to streamline the documents needed for a change in title of mortgaged property, change of operator or management agent, or complete change of all the parties. Documents still being used in the Multifamily format were incorporated into this collection, to specifically address ORCF policy. New Lender Narratives were also added for the addition of Accounts Receivable, for Requests to Release or Modify Original Loan Collateral and Loan Modifications (along with a corresponding Certification). New forms were also added to incorporate existing samples in use for Section 232 HUD Healthcare Portal Access, and notification to ORCF, by the Servicer and Operator of developing concerns within a project.

• Supplemental Loan Documents—Section 241(a) Mortgage Insurance for Supplemental Loans for Multifamily Projects. All Section 241(a) loan documents that have been in use as samples are now made a part of the documentation collection for OMB approval. **Note:** HUD makes no changes to the Legal Opinion and Certification Documents.

Respondents (i.e. affected public): Business or other for profit.

Estimated Number of Respondents: 5,451.00.

Estimated Number of Responses: 26,001.27.

Frequency of Response: 4.77.

Average Hours per Response: 1.87.

Total Estimated Burdens: 48,622.37.

Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 22, 2018.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–14081 Filed 6–28–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZG02200.L16100000.DO0000.LXSS206A0000]

Notice of Availability of the Draft San Pedro Riparian National Conservation Area Resource Management Plan and Associated Environmental Impact Statement, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Tucson Field Office (TFO) has prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the San Pedro Riparian National Conservation Area (SPRNCA) and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP/Draft EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability of the Draft RMP/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the SPRNCA Draft RMP/Draft EIS by any of the following methods:

• *Website: https://go.usa.gov/xQKFU.*

• *Email: blm_az_tfo_sprnca_rmp@blm.gov.*

• *Fax:* 520–258–7238.

• *Mail:* Tucson Field Office Attn: Amy Markstein, 3201 East Universal Way, Tucson, AZ 85756.

Copies of the SPRNCA Draft RMP/Draft EIS are available in the Tucson Field Office at the above address and at the San Pedro Project Office, 4070 S Avenida Saracino, Hereford, AZ 85615.

FOR FURTHER INFORMATION CONTACT: Amy Markstein, Planning & Environmental Specialist, telephone 520–258–7231; address 3201 East Universal Way, Tucson, AZ 85756; email *blm_az_tfo_sprnca_rmp@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during

normal business hours. FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The SPRNCA was established by Public Law 100–696 on November 18, 1988. The planning area is located in Cochise County in southeastern Arizona, and encompasses approximately 55,990 acres of public land administered by the BLM TFO. The SPRNCA is located adjacent to the City of Sierra Vista and is near Fort Huachuca, Arizona.

The SPRNCA is currently managed under the Safford District RMP (1992 and 1994), which incorporated RMP level decisions from the San Pedro River Riparian Management Plan (1989). This planning effort would update management guidance from the previous plans and create a new RMP for the SPRNCA. The planning effort is needed to identify goals, objectives, and management actions for the SPRNCA's resources and uses identified in the enabling legislation, including aquatic; wildlife; archaeological; paleontological; scientific; cultural; educational; and recreational resources and values.

The BLM used public scoping comments to help identify planning issues that directed the formulation of alternatives and framed the scope of analysis in the Draft RMP/Draft EIS. Issues identified included management of water, vegetation, and soil resources, fire management, Threatened and Endangered species management, livestock grazing, access, recreation, socio-economics, and lands and realty. The planning effort also considers lands with wilderness characteristics, wild and scenic rivers, and Areas of Critical Environmental Concern (ACECs).

The Draft RMP/Draft EIS evaluates four alternatives in detail. Alternative A is the No Action Alternative, which is a continuation of current management in the existing Safford District RMP and San Pedro River Riparian Management Plan. It is a continuation of current public use, resource protection, and conservation prescriptions without change. It neither sets desired outcomes for resource management or most uses, nor addresses new issues unforeseen or nonexistent when the Safford District RMP was prepared. Alternative B provides opportunities for increased public access, includes livestock grazing in sensitive riparian and cultural areas, allows recreation uses, and focuses on active resource management using the broadest array of management tools. This would include use of heavy equipment, herbicide, hand tools, and prescribed fire to achieve goals and objectives, to mitigate any effects from increased use, and for ecosystem restoration. Alternative B places an emphasis on opportunities for motorized access. Alternative C is the BLM's preferred alternative. Alternative C represents a balance between resource protection and public access, authorizes livestock grazing in areas compatible with the established conservation values, and provides for a diverse mix of recreation opportunities. As in Alternative B, Alternative C focuses on active resource management and would allow for use of the broadest array of management tools for ecosystem restoration and to meet goals and objectives. Alternative D emphasizes resource protection and conservation. It emphasizes primitive recreational experiences with limited motorized access, protection of wilderness characteristics, ACECs, and management of the San Pedro and Babocomari Wild and Scenic Rivers. It focuses on natural processes and use of ''light on the land'' management methods, such as the use of hand tools and prescribed fire, to help meet goals and objectives.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period for potential ACECs. There are three existing ACECs under Alternative A, and three expanded and two new potential ACECs under Alternative D. ACECs are not proposed under Alternatives B and C. Pertinent information regarding these ACECs, including proposed designation acreage and resource use limitations are listed below.

PROPOSED ACECS

	Alternative A (acres)	Alternative D (acres)	ACEC resource values	Resource use limitations
Saint David Cienega ACEC	380	2,710	Cienega habitat, Cultural and historical values.	Visual Resource Management (VRM) class II.
San Pedro ACEC	1,420	7,230	Upland and riparian areas, Rare plants, Cultural and historical values.	VRM class II.
San Rafael ACEC	370	560	Rare plants, Giant sacaton grasslands, Mesquite bosques.	VRM class II.
Curry-Horsethief ACEC	.....	2,540	Cultural, historical, and paleontological values.	VRM class II, land use authorizations would be excluded.
Lehner Mammoth ACEC	.....	30	Cultural, historical, and paleontological values.	VRM class II, land use authorizations would be excluded.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except 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.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Raymond Suazo,

State Director.

[FR Doc. 2018–13813 Filed 6–28–18; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–D–COS–POL–25829: PPWODIREP0][PPMPSPD1Y.YM0000]

''Made in America'' Outdoor Recreation Advisory Committee Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory

Committee Act of 1972 (5 U.S.C. Appendix 1–16) of the first meeting of the ''Made in America'' Outdoor Recreation Advisory Committee (Committee).

DATES: The meeting will be held on Tuesday, July 17, 2018, in Washington, DC, from 9:30 a.m. to 4:00 p.m. (EASTERN).

ADDRESSES: The meeting will be held in the South Penthouse of the Stewart Lee Udall Department of the Interior Building located at 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Alma Ripps, Designated Federal Officer, Office of Policy, National Park Service, telephone 202–354–3950, or email *alma_ripps@nps.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established on March 13, 2018, by authority of the Secretary of the Interior (Secretary) under 54 U.S.C. 100906, and is regulated by the Federal Advisory Committee Act. The Committee's duties are strictly advisory and include, but are not limited to, providing recommendations to the Secretary on policies and programs that: Expand and improve visitor infrastructure developed through public-private partnerships across all public lands; implement sustainable operations embracing fair, efficient, and convenient fee collection and strategic use of the collected fees; improve interpretation using technology; and create better tools and/or opportunities for Americans to discover their lands and waters. The Committee will also provide recommendations for implementation of Secretarial Order No. 3347: Conservation Stewardship and Outdoor Recreation, and other areas as requested by the Secretary.

Purpose of the Meeting: The purpose of the meeting is to discuss the following topics:

- Welcome and Introductions
- Election of Chair
- Trail Systems
- State Partnerships
- Concessions
- Broadband and Infrastructure
- Campgrounds of the Future
- Public Comment Period

The meeting is open to the public, but preregistration is required due to security requirements in the building and limited seating. Any individual who wishes to attend the meeting should register via email at *shirley_sears@nps.gov* or telephone 202–354–3955. Interested persons may choose to make a public comment at the meeting during the designated time for this purpose. Members of the public may also choose to submit written comments by mailing them to Alma Ripps, Designated Federal Officer, Office of Policy, National Park Service, 1849 C Street NW, MS 2659, Washington, DC 20240, or via email *alma_ripps@nps.gov.*

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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.

Detailed minutes of the meeting will be available for public inspection within 90 days of the meeting from the Office of Policy, National Park Service, 1849 C Street NW, Room 2659, Washington, DC 20240.

Authority: 5 U.S.C. Appendix 2.

Alma Ripps

Chief, Office of Policy.

[FR Doc. 2018–14072 Filed 6–28–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA104000; OMB Control Number 1010–0072; Docket ID: BOEM–2018–0016]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; 30 CFR 580, Prospecting for Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf and Authorizations of Noncommercial Geological and Geophysical Activities

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 30, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to 202–395–5806. Please provide a copy of your comments to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference Office of Management and Budget (OMB) Control Number 1010–0072 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Anna Atkinson by email, or by telephone at 703–787–1025. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 6, 2018 (83 FR 14884). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BOEM? (2) Will this information be processed and used in a timely manner? (3) Is the estimate of burden accurate? (4) How might BOEM enhance the quality, utility, and clarity of the information to be collected? and (5) How might BOEM minimize the burden of this collection on the respondents, including through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The information collection request concerns the paperwork requirements in the regulations under 30 CFR part 580, Prospecting for Minerals Other than Oil, Gas, and Sulphur on the Outer Continental Shelf (OCS), as well as authorizations of noncommercial geological and geophysical (G&G) prospecting and scientific research activities issued pursuant to Section 11 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1340).

The OCS Lands Act authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of mineral resources on the OCS. Section 8(k)(1) of the OCS Lands Act, 43 U.S.C. 1337(k)(1), authorizes the Secretary ''. . . to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the [O]uter Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.''

Section 11(a)(1) of the OCS Lands Act, 43 U.S.C. 1340(a)(1), states that ''. . . any person authorized by the Secretary may conduct geological and geophysical explorations in the [O]uter Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area.'' Under 30 CFR part 580, G&G exploration to be performed by any person on unleased lands or lands under lease to a third party requires issuance of a BOEM permit or submission of a scientific research notice. Section 1340(g) further requires that permits for geologic exploration will only be issued if it is determined that the applicant for such permit is qualified; the exploration will not interfere with or endanger operations under any lease; and the exploration will not be unduly harmful to aquatic life, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archaeological significance.

Prospecting for marine minerals includes certain aspects of exploration as defined in the OCS Lands Act at 43 U.S.C. 1331(k). That section defines the term ''exploration'' to mean the process of searching for minerals, including conducting ''geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or characterize the presence of such minerals. . . .''

As a Federal agency, BOEM has a responsibility to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), Endangered Species Act (16 U.S.C. 1531 *et seq.*), and Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), among other environmental laws. Compliance with the Endangered Species Act includes a substantive duty to carry out any agency action in a manner that is not likely to jeopardize protected species or result in adverse modification of designated critical habitat, as well as a procedural duty to consult with the United States Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) before engaging in a discretionary action that may affect a protected species.

Respondents are required to submit form BOEM–0134 to provide the information necessary to evaluate their request to conduct G&G prospecting, exploration or scientific research activities, and upon approval, respondents are issued a permit or authorization. BOEM uses the information to ensure there is no adverse effect to the marine, coastal, or human environment, nor personal harm, unsafe operations and conditions, or unreasonable interference with other uses; to analyze and evaluate preliminary or planned mining activities; to monitor progress of activities in the OCS; to acquire G&G data and information collected under a Federal permit offshore; and to determine eligibility for reimbursement from the Government for certain costs.

BOEM uses the information collected to understand the G&G characteristics of marine mineral-bearing physiographic regions of the OCS. The information aids BOEM in analyzing and weighing the potential for environmental damage, the discovery of marine minerals, and any associated impacts on affected coastal States.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and the OMB Circular A–25 authorize Federal agencies to recover the full cost of services that confer special benefits. Accordingly, all G&G permits for commercial prospecting are subject to cost recovery, and BOEM regulations at 30 CFR 580.12 specify the service fees for these requests.

BOEM protects proprietary information in accordance with the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and under regulations at 30 CFR 580.70, as well as applicable sections of 30 CFR parts 550 and 552.

Title of Collection: 30 CFR 580, Prospecting for Minerals other than Oil, Gas, and Sulphur on the Outer Continental Shelf and Authorizations of Noncommercial Geological and Geophysical Activities.

OMB Control Number: 1010–0072.

Form Number: BOEM–0134, Requirements for Geological and Geophysical Prospecting, Exploration, or Scientific Research on the Outer Continental Shelf Related to Minerals Other than Oil, Gas, and Sulphur.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Permittees/respondents, including those required to only file notices (scientific research).

Total Estimated Number of Annual Responses: 38.

Total Estimated Number of Annual Burden Hours: 485 hours.

Respondent's Obligation: Mandatory or Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion, annual, or as specified in permits.

Total Estimated Annual Non-Hour Cost: $4,024.

Estimated Reporting and Recordkeeping Hour Burden: We expect the burden estimate for the renewal will be 485 hours, which is a decrease of 3 burden hours.

In calculating the burden, requesting Governor(s) comments on activities pursuant to 30 CFR 580.31(b) and 30 CFR 580.73 does not constitute information collection under 5 CFR 1320.3(h)(4). These requests for comment are general solicitations of public comment, so BOEM has removed the burden hours associated with this burden.

The following table details the individual BOEM components and respective hour burden estimates of this ICR.

BURDEN TABLE

Citation 30 CFR part 580, as applicable	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden [1]		
Subpart B				
10; 11(a); 12; 13; Permit Form.	Apply for permit or authorization (Form BOEM–0134) to conduct prospecting/exploration or G&G scientific research activities, including prospecting/scientific research plan and environmental assessment or required drilling plan. Provide notifications & additional information as required.	88	2 permit applications ..... 2 applications for authorization.	176 176
		$2,012 permit application fee × 2 permits [2] = $4,024		
11(b); 12(c)	File notice to conduct scientific research activities related to hard minerals, including notice to BOEM prior to beginning and after concluding activities.	8	3 notices	24
Subtotal	.....	.....	7 Responses	376
			$4,024 non-hour cost burden	
Subpart C				
21(a)	Report to BOEM if hydrocarbon/other mineral occurrences are detected; if environmental hazards that imminently threaten life and property are detected; or adverse effects occur to the environment, aquatic life, archaeological resources or other uses of the area.	1	1 report	1
22	Submit written request for approval to modify operations, with required information.	1	2 requests	2
23(b)	Request reimbursement for food, quarters, and/or transportation expenses for BOEM inspection.	1	3 requests	3
24	Submit status and final reports on specified schedule with daily log.	12	4 reports	48
28	Request relinquishment of permit by certified or registered mail.	1	1 request [3]	1
31(b); 73(a)(b)	Governor(s) of adjacent State(s) submit to BOEM: Comments on activities involving an environmental assessment; any agreement between Governor and Secretary upon Governor's request for proprietary data, information, and samples; and any disclosure agreement.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0
33, 34	Appeal civil penalty; appeal order or decision	Burden exempt under 5 CFR 1320.4(a)(2); (c).		0
Subtotal	.....	.....	11 Responses	55
Subpart D				
40; 41; 50; 51; Permit Form.	Notify BOEM and submit G&G data including analysis, processing or interpretation of information collected under a permit and/or processed by permittees or 3rd parties, including reports, logs or charts, results, analyses, descriptions, etc., as required.	8	3 submissions	24
42(b); 52(b)	Advise 3rd party recipient in writing that it assumes obligations as condition precedent of sale—no submission to BOEM is required.	½	4 notices	2
42(c), (d); 52(c), (d)	Written notification to BOEM of sale, trade, transfer or licensing of data and identify recipient.	1	1 notice	1

BURDEN TABLE—Continued

Citation 30 CFR part 580, as applicable	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burden [1]		
60; 61	Request reimbursement for costs of reproducing data/information & certain processing costs.	1	1 request [3]	1
70	Enter disclosure agreement	4	1 agreement	4
72(b)	Submit comments on BOEM's intent to disclose data/information for reproduction, processing, and interpretation.	4	1 response	4
72(d)	Independent contractor or agent prepares and signs written commitment not to sell, trade, license, or disclose data/information without BOEM approval.	4	2 submissions	8
Subtotal			13 Responses	44
	General			
Part 580	General departure and alternative compliance requests not specifically covered elsewhere in Part 580 regulations.	4	1 request	4
Permits [4]	Request extension of permit/authorization time period.	1	2 requests	2
Permits [4]	Retain G&G data/information for 10 years and make available to BOEM upon request.	1	4 respondents	4
Subtotal			7 Responses	10
Total Burden			38 Responses	485
			$4,024 non-hour cost burdens	

[1] Fees are subject to modification for inflation annually.
[2] Only permits, not authorizations, are subject to cost recovery.
[3] No requests received for many years. Minimal burden for regulatory (PRA) purposes only.
[4] These permits/authorizations are prepared by BOEM and sent to respondents; therefore, the forms themselves do not incur burden hours.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 22, 2018.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulation and Analysis.

[FR Doc. 2018–14046 Filed 6–28–18; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1121]

Certain Earpiece Devices and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 24, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Bose Corporation of Framingham, Massachusetts. A supplemental exhibit was filed on June 8, 2018. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain earpiece devices and components thereof by reason of infringement of U.S. Patent No. 9,036,852 (''the '852 patent''); U.S. Patent No. 9,036,853 (''the '853 patent''); U.S. Patent No. 9,042,590 (''the '590 patent''); U.S. Patent No. 8,311,253 (''the '253 patent''); U.S. Patent No. 8,249,287 (''the '287 patent''); and U.S. Patent No. 9,398,364 (''the '364 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general or limited exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained

by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 22, 2018, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of products identified in paragraph (2) by reason of infringement of one or more of claims 1, 5, 7, 9, and 14 of the '852 patent; claims 1–3, 6, 8, 10, and 11 of the '853 patent; claims 1, 3, 4, 6, 7, and 10 of the '590 patent; claims 1, 3, 4, and 6 of the '253 patent; claims 1 and 6–8 of the '287 patent; and claims 1, 2, 5, 8, 11, and 16 of the '364 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''in-ear headphones and accessories using a retaining structure to secure the device in a user's ear'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Bose Corporation, 100 Mountain Road, Framingham, MA 01701.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

1MORE USA, Inc., 10225 Barnes Canyon Road, Suite A202, San Diego, CA 92121

APSkins, 140 Lakeside Avenue, Suite A #334, Seattle, WA 98122

Beeebo Online Limited, 3837 Bay Lake Trail, Suite 115, North Las Vegas, NV 89030

iHip, 19 Progress Street, Edison, NJ 08820

LMZT LLC, 303 Louisiana Avenue, Brooklyn, NY 11207

Misodiko, NanShanQu XiLiJieDao PingShanCun, 192 Dong 509, ShenZhen GuangDong 518055 China

Phaiser LLC, 909 Silber Road, Houston, TX 77024

Phonete, A–201 No. 1 Qianwan Yilu, Qianhai Shenggang hezuoqu, Shenzhen, China

REVJAMS, 248 Lafayette Street, New York, NY 10012

SMARTOMI Products, Inc., 2760 E Philadelphia Street, Ontario, CA 91761

Spigen, Inc., 9975 Toledo Way, Suite 100, Irvine, CA 92618–1826

Sudio AB, Upplandsgatan 7, 111 23 Stockholm, Sweden

Sunvalley Tek International, Inc., 46724 Lakeview Boulevard, Fremont, CA 94538

TomRich, Room842, 3B, HuaNanXiYuan, PingHu Town, LongGang District, Shenzhen, 518100 China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 25, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–13962 Filed 6–28–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–921 (Third Review)]

Folding Gift Boxes From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines,[2] pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on folding gift boxes from China would be likely to lead to 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 February 1, 2018 (83 FR 4679) and determined on May 7, 2018 that it would conduct an expedited review (83 FR 24341, May 25, 2018).

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 July 2, 2018. The views of the Commission are contained in USITC Publication 4800 (July 2018), entitled *Folding Gift Boxes from China: Investigation No. 731–TA–921 (Third Review).*

By order of the Commission.

Issued: June 26, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14061 Filed 6–28–18; 8:45 am]

BILLING CODE 7020–02–P

[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] Commissioner Kearns did not participate in this five-year review.

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 6–18]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Tuesday, July 10, 2018: 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

11:00 a.m.—Issuance of Proposed Decisions under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street NW, Suite 10300, Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 601 D Street NW, Suite 10300, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2018–14159 Filed 6–27–18; 11:15 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Openings and Labor Turnover Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Job Openings and Labor Turnover Survey,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201711-1220-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Job Openings and Labor Turnover Survey information collection. The JOLTS collects data on job vacancies, labor hires, and labor separations. The data can be used as demand-side indicators of labor shortages. These indicators of labor shortages at the national level greatly enhance policy makers' understanding of imbalances between the demand and supply of labor. Presently there is no other economic indicator of labor demand with which to assess the presence of labor shortages in the U.S. labor market. The availability of unfilled jobs is an important measure of tightness of job markets, symmetrical to unemployment measures. BLS Authorizing Statute sections 1 and 2 authorize this information collection. *See* 29 U.S.C. 1, 2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0170.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on June 30, 2018. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 10, 2018 (83 FR 15408).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0170. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–BLS.

Title of Collection: Job Openings and Labor Turnover Survey.

OMB Control Number: 1220–0170.

Affected Public: Federal Government; State, Local, and Tribal Governments; and Private Sector—businesses or other

for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 10,825.

Total Estimated Number of Responses: 129,900.

Total Estimated Annual Time Burden: 21,650 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 25, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14009 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Requirements Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Occupational Requirements Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1220-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Occupational Requirements Survey (ORS). The ORS is a nationwide survey the BLS is conducting at the request of the Social Security Administration (SSA). The ORS began in 2018 and will end in mid-2021. The currently approved portions of this data collection will continue as scheduled. This information collection has been classified as a revision, because of new cognitive questions and physical formatting changes to the collection form. The BLS Authorizing Statute and the Economy Act authorize this information collection. *See* 29 U.S.C. 9, 9(a), and 31 U.S.C. 1535.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0189. The current approval is scheduled to expire on August 31, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 27, 2017 (82 FR 61330).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0189. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–BLS.

Title of Collection: Occupational Requirements Survey.

OMB Control Number: 1220–0189.

Affected Public: Private Sector—businesses or other for-profits, state, local, and tribal governments.

Total Estimated Number of Respondents: 10,000.

Total Estimated Number of Responses: 11,700.

Total Estimated Annual Time Burden: 20,948 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14010 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Definition and Requirements for a Nationally Recognized Testing Laboratory

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled,

''Definition and Requirements for a Nationally Recognized Testing Laboratory,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201711-1218-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Definition and Requirements for a Nationally Recognized Testing Laboratory (NRTL) information collection. A number of OSHA issued standards contain requirements that specify employers use only equipment, products, or material tested or approved by a NRTL. These requirements ensure that employers use safe and efficacious equipment, products, or materials in complying with the standards. Accordingly, the OSHA promulgated its Program Regulation for NRTLs, 29 CFR 1910.7, which specifies procedures an organization must follow to apply for and to maintain OSHA recognition to test and certify equipment, products, or material for safe use in the workplace. The OSHA has also developed standardized optional use forms to facilitate and simplify the information collection process. The forms correspond to the application, expansion, and renewal processes defined in the NRTL Program. This information collection has been classified as a revision, because the OSHA intends to change the NRTL Program's fee schedule associated with initial recognition, program expansion, renewals of recognition, and on-site audits. To facilitate the payment of fees and reduce the burden on NRTLs, the OSHA is in the process of established an electronic payment mechanism on *Pay.gov.* A user would be required to complete a short payment form for each transaction on this site. The OSHA is also requesting an increase in costs associated with OSHA's planned increase in filing and assessment fees. The fees charged by OSHA under the existing fee schedule have been far lower than the costs of performing the activities for which the OSHA charges fees. The OSHA is required to set fees at a level that cover its full costs in reviewing NRTL applications. *See* 29 CFR 1910.7(f)(2). The proposed fee schedule will rectify this flaw and more accurately reflect the full cost of performing the activities for which OSHA charges fees. Occupational Safety and Health Act of 1970 sections 2(b)(3), (9), (12), and 8(c) and (g) authorize this information collection. *See* 29 U.S.C. 651(b)(3), (9), (12); 657(c), (g).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0147. The current approval is scheduled to expire on April 30, 2020; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 28, 2016 (81 FR 95650).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0147. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–OSHA.

Title of Collection: Definition and Requirements for a Nationally Recognized Testing Laboratory.

OMB Control Number: 1218–0147.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 20.

Total Estimated Number of Responses: 140.

Total Estimated Annual Time Burden: 1,523 hours.

Total Estimated Annual Other Costs Burden: $728,352.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–13969 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bloodborne Pathogens Standard

ACTION: Notice of availability; request for comments.

SUMMARY: On June 29, 2018, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Bloodborne Pathogens Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1218-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Bloodborne Pathogens Standard information collection requirements codified in regulations 29 CFR 1910.1030. The Bloodborne Pathogen Standard is an occupational safety and health standard that prevents occupational exposure to bloodborne pathogens. The standard's information collection requirements are essential components that protect workers from occupational exposure. The information is used by employers and workers to implement the protection required by the Standard. OSHA compliance officers will use some of the information in enforcing the Standard. The collections of information contained in the Bloodborne Pathogens Standard include a written exposure control plan, documentation of workers' hepatitis B vaccinations and post-exposure evaluations and follow-up medical visits, training, related recordkeeping and a sharps injury log. Information generated in accordance with these provisions provides the employer and the worker with means to provide protection from the adverse health effects associated with occupational exposure to bloodborne pathogens. Occupational Safety and Health Act sections 2(b)(9), 6, and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0180.

The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 18, 2018 (83 FR 17194).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0180. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–OSHA.

Title of Collection: Bloodborne Pathogens Standard.

OMB Control Number: 1218–0180.

Affected Public: Private Sector—business or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 770,724.

Total Estimated Number of Responses: 266,656,386.

Total Estimated Annual Time Burden: 5,687,682 hours.

Total Estimated Annual Other Costs Burden: $51,817,985.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 26, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14036 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Longitudinal Survey of Youth 1979

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor

Statistics (BLS) sponsored information collection request (ICR) revision titled, ''National Longitudinal Survey of Youth 1979,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 30, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1220-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the National Longitudinal Survey of Youth 1979 (NLSY79). The NLSY79 is a representative national sample of persons who were born in the years 1957 to 1964 and lived in the U.S. in 1978. These respondents were ages 14 to 22 when the first round of interviews began in 1979; they are ages 53–60 when the planned round twenty-eight of interviews is conducted in 2018 and 2019. The NLSY79 was conducted annually from 1979 to 1994 and has been conducted biennially since 1994. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income, and program participation. In addition to the main NLSY79, the biological children of female NLSY79 respondents have been surveyed since 1986. A battery of child cognitive, socio-emotional, and physiological assessments has been administered biennially since 1986 to NLSY79 mothers and their children. Starting in 1994, children who had reached age 15 by December 31, of the survey year (the Young Adults) were interviewed about their work experiences, training, schooling, health, fertility, self-esteem, and other topics. One of the goals of the DOL is to produce and disseminate timely, accurate, and relevant information about the U.S. labor force. The BLS contributes to this goal by gathering information about the labor force and labor market and disseminating it to policymakers and the public so that participants in those markets can make more informed, and thus more efficient, choices. Research based on the NLSY79 contributes to the formation of national policy in the areas of education, training, employment programs, and school-to-work transitions. This information collection has been classified as a revision, because of changes to the questionnaire that make it longer and more ''older young adult'' respondents and young adult respondents with children, who tend to have longer interview times. BLS Authorizing Statute Title 29 sections 1 and 2 authorize this information collection. *See* 29 U.S.C. 1&2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0109. The current approval is scheduled to expire on October 31, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 26, 2017 (82 FR 61030).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0109. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: DOL–BLS.

Title of Collection: National Longitudinal Survey of Youth 1979.

OMB Control Number: 1220–0109.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 12,060.

Total Estimated Number of Responses: 12,070.

Total Estimated Annual Time Burden: 14,349 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14008 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Notice of Termination, Suspension, Reduction or Increase in Benefit Payments (CM–908). A copy of the information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 28, 2018.

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210; by fax to (202) 354–9647; or by Email to *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail/delivery, fax, or Email). Please note that comments submitted after the comment period will not be considered.

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.* Coal mine operators, their representatives, or their insurers who have been identified as responsible for paying Black Lung benefits to an eligible miner or an eligible surviving dependent of the miner are called Responsible Operators (RO's). RO's that pay benefits are required to report any change in the benefit amount to the Department of Labor (DOL). The CM–908, when completed and sent to DOL, notifies DOL of the change in the beneficiary's benefit amount and the reason for the change. The BLBA and 20 CFR 725.621 necessitate this information collection. This information collection is currently approved for use through August 31, 2018.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* 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.

III. Current Actions: The Department of Labor seeks approval for the extension of this currently approved information collection to insure that the correct benefits are paid by RO's. If this information were not gathered, there would be no way to insure that black lung beneficiaries who receive benefit payments from RO's are receiving the correct amount of benefits.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Notice of Termination, Suspension, Reduction or Increase in Benefit Payments.

OMB Number: 1240–0030.

Agency Number: CM–908.

Affected Public: Business or other for profit.

Total Respondents: 325.

Total Annual Responses: 3,900.

Average Time per Response: 12 minutes.

Estimated Total Burden Hours: 780.

Frequency: On occasion and annually.

Total Burden Cost (Capital/Startup): $0.

Total Burden Cost (Operating/Maintenance): $3,721.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 25, 2018.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2018–14095 Filed 6–28–18; 8:45 am]

BILLING CODE 4510–CK–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–295, 50–304; NRC–2015–0082]

Zion Solutions, LLC; Zion Nuclear Power Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Final environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment to nuclear reactor licenses DPR–39 and DPR–48 to add a license condition that reflects the NRC's approval of the license termination plan (LTP) and provides criteria for when NRC approval is needed for LTP changes. The NRC has prepared a final environmental assessment (EA) and finding of no significant impact (FONSI) for this licensing action.

DATES: The final EA and FONSI referenced in this document are available on June 25, 2018.

ADDRESSES: Please refer to Docket ID NRC–2015–0082 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 Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0082. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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

email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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

FOR FURTHER INFORMATION CONTACT: Jessie Muir Quintero, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7476, email: *Jessie.Quintero@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In December 2014, Zion*Solutions,* LLC (ZS, the licensee) submitted a license amendment request, which included the LTP for Zion Nuclear Power Station, Units 1 and 2 (ZNPS). The LTP was updated by ZS twice, in June 2017 and February 2018. The NRC is considering amending licenses DPR–39 and DPR–48 to add a license condition that reflects the NRC's approval of the LTP and provides criteria for when NRC approval is need for LTP changes. As required by part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC prepared a final EA. Based on the results of the final EA, described as follows, the NRC has determined not to prepare an environmental impact statement (EIS) for the amendment, and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action is the NRC's review and approval of the ZNPS LTP. In its license amendment request, ZS requested amendment of the ZNPS licenses to add license conditions (1) reflecting the NRC staff's approval of the LTP and (2) providing criteria for when NRC approval is needed for LTP changes. If the NRC approves the LTP, the approval will be issued in the form of an amendment to the ZNPS licenses to add the requested license conditions.

The LTP describes the process the licensee will use to meet the requirements for terminating the operating licenses and to release the site for unrestricted use. The LTP outlines the remaining decommissioning and dismantling activities.

Need for the Proposed Action

The purpose of and need for the proposed action is to allow for the completion of decommissioning of the ZNPS site by the licensee, the termination of the ZNPS license operating licenses by the NRC, and the subsequent release of the ZNPS site for unrestricted use. The NRC will terminate the licenses if it determines that the site meets the performance-based criteria for unrestricted site release, in accordance with 10 CFR 20.1402, and that the facility has been dismantled in accordance with the LTP.

Environmental Impacts of the Proposed Action

The NRC assessed the environmental impacts of the license termination activities and remaining decommissioning activities and determined there would be no significant impact to the quality of the human environment.

During its review of the ZNPS LTP, the NRC concluded the impacts for most resource areas—land use, water resources, air quality, ecology, socioeconomics, historic and cultural resources, aesthetics, noise, and transportation—were still bounded by the previously issued Decommissioning Generic Environmental Impact Statement (GEIS). Therefore, the NRC does not expect impacts beyond those discussed in the GEIS, which concluded that the impact level for these issues was SMALL.

In the EA, the NRC evaluated the potential site-specific environmental impacts of the remaining decommissioning and license termination activities on climate change, public and occupational health, environmental justice, and waste management and did not identify any significant impacts. For protected species, the NRC determined that the proposed action may affect but not likely to adversely affect the rufa red knot (*Calidris canutus rufa*), the piping plover (*Charadrius melodius*), and the northern long-eared bat (*Myotis septentrionalis*). The final EA was updated to indicate that the proposed action would not adversely modify the designated critical habitat for the piping plover.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Under the no-action alternative, the NRC would not approve the LTP or the license amendment request because regulatory requirements have not been met. Consequently, the ZNPS licenses would not be terminated, decommissioning and other onsite maintenance and operational activities involving the storage of spent nuclear fuel would continue, and the ZNPS site would not be released for unrestricted use. If the NRC was unable to approve the LTP because the regulatory requirements were not met, then the licensee would have to take the necessary actions to ensure the regulations are met.

Agencies and Persons Consulted

On April 2, 2018, the NRC staff sent a copy of the draft EA to the Illinois Emergency Management Agency (IEMA) for review and comment. The IEMA responded on May 03, 2018, with several comments on the draft EA that were addressed in the final EA.

The NRC consulted with the U.S. Fish and Wildlife Service (FWS) on listed protected species at the ZNPS site. On April 5, 2018, the NRC requested FWS review and concurrence with the NRC's determination that the proposed action may affect, but is not likely to adversely affect three federally listed species. FWS concurred with the NRC's determination on May 31, 2018. In its letter, the FWS determined that the analysis of the piping plover in the EA was sufficient to conclude that the proposed action would not adversely modify the designated critical habitat for the piping plover. The NRC revised the EA to state that the designated critical habitat for the plover was present within the action area and that there would not be adverse modifications of designated critical habitat for the piping plover.

III. Finding of No Significant Impact

Based on its review of the proposed action, and in accordance with the requirements in 10 CFR part 51, the NRC staff has determined that pursuant to 10 CFR 51.31, preparation of an EIS is not required for the proposed action and, pursuant to 10 CFR 51.32, a FONSI is appropriate.

On the basis of the final EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an EIS for the proposed action.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Documents	ADAMS accession Nos./web links
License Amendment Request, December 19, 2014	ML15005A336
LTP Revision 1, July 20, 2017	ML17215A095
LTP Revision 2, February 7, 2018	ML18052A857
Final EA	ML18172A176
NUREG–0586, Supplement 1, Decommissioning GEIS	*https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0586/*
Transmittal of Draft EA to IEMA, April 2, 2018	ML18095A987
IEMA Comments on Draft EA, May 3, 2018	ML18124A018
Transmittal of Draft EA to FWS, April 5, 2018	ML18108A345
FWS Concurrence on NRC Determination, May 31, 2018	ML18157A315

Dated at Rockville, Maryland, this 26th day of June 2018.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–14004 Filed 6–28–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83509; File Nos. SR–DTC–2017–021; SR–FICC–2017–021; SR–NSCC–2017–017]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes To Adopt a Recovery & Wind-Down Plan and Related Rules

June 25, 2018.

On December 18, 2017, The Depository Trust Company (''DTC''), Fixed Income Clearing Corporation (''FICC''), and National Securities Clearing Corporation (''NSCC'') (collectively, ''Clearing Agencies''), each filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to adopt a recovery and wind-down plan and related rules (SR–DTC–2017–021, SR–FICC–2017–021, and SR–NSCC–2017–017), respectively (''Proposed Rule Changes''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Changes were published for comment in the **Federal Register** on January 8, 2018.[3] On February 8, 2018, the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Changes.[4] On March 20, 2018, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the Proposed Rule Changes.[6] The Commission did not receive any comments on the Proposed Rule Changes.

Section 19(b)(2) of the Act [7] provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[8] The 180th day for the Proposed Rule Changes is July 7, 2018.

The Commission is extending the period for Commission action on the Proposed Rule Changes. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Changes so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Changes and to take action on the Proposed Rule Changes. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[9]

Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Act [10] and for the reasons stated above, the Commission designates September 5, 2018, as the date by which the Commission should either approve or disapprove proposed rule changes SR–DTC–2017–021, SR–FICC–2017–021, and SR–NSCC–2017–017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13974 Filed 6–28–18; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4. On December 18, 2018, the Clearing Agencies each filed these proposals as advance notices (SR–DTC–2017–803, SR–FICC–2017–805, SR–NSCC–2017–805) with the Commission pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) of the Act (''Advance Notices''). On January 30, 2018, the Commission published in the **Federal Register** notices of filing of the Advance Notices. These notices also extended the review periods for the Advance Notices pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act. (12 U.S.C. 5465(e)(1)(H).) *See* Securities Exchange Act Release Nos. 82579 (January 24, 2018), 83 FR 4310 (January 30, 2018) (SR–DTC–2017–803); 82580 (January 24, 2018), 83 FR 4341 (January 30, 2018) (SR–FICC–2017–805); 82581 (January 24, 2018), 83 FR 4327 (January 30, 2018) (SR–NSCC–2017–805). On April 10, 2018, the Commission required further information for consideration of the Advance Notices, pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act, which provided the Commission with a renewed 60-day review period beginning on the date that the information requested is received by the Commission. (12 U.S.C. 5465(e)(1)(D).) As of the date of this release, the Commission has not yet received the requested information.

[3] Securities Exchange Act Release Nos. 82432 (January 2, 2018), 83 FR 884 (January 8, 2018) (SR–DTC–2017–021); 82431 (January 2, 2018), 83 FR 871 (January 8, 2018) (SR–FICC–2017–021); 82430 (January 2, 2018), 83 FR 841 (January 8, 2018) (SR–NSCC–2017–017).

[4] Securities Exchange Act Release No. 82669 (February 8, 2018), 83 FR 6653 (February 14, 2018) (SR–DTC–2017–021; SR–FICC–2017–021; SR–NSCC–2017–017).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Securities Exchange Act Release Nos. 82912 (March 20, 2018), 83 FR 12999 (March 26, 2018) (SR–DTC–2017–021); 82913 (March 20, 2018), 83 FR 12997 (March 26, 2018) (SR–FICC–2017–021); 82908 (March 20, 2018), 83 FR 12986 (March 26, 2018) (SR–NSCC–2017–017).

[7] 15 U.S.C. 78s(b)(2).

[8] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[9] *See supra* note 2.

[10] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83515; File No. SR–MIAX–2018–12]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 510 To Extend the Penny Pilot Program

June 25, 2018,

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 18, 2018, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ™ (''QQQ''), SPDR® S&P 500® ETF (''SPY''), and iShares® Russell 2000 ETF (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 [3] and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2018.[4] The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2018.

In addition to the extension of the Penny Pilot Program through December 31, 2018, the Exchange proposes to extend one other date in the Rule. Currently, Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following January 1, 2018.[5] Because this date has expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2018.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] 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, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options 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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges

[3] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[4] *See* Securities Exchange Act Release No. 82354 (December 19, 2017), 82 FR 61058 (December 26, 2017) (SR–MIAX–2017–48) (extending the Penny Pilot Program from December 31, 2017 to June 30, 2018).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following July 1, 2018, will be identified based on trading activity from December 1, 2017, through May 31, 2018.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

will be filing similar extensions of the Penny Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–12 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–MIAX–2018–12. 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 website *(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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2018–12 and should be submitted on or before July 20, 2018. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

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[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83505; File No. SR–CBOE–2018–046]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Rule 6.2., Hybrid Opening (and Sometimes Closing) System (''HOSS'')

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.2., Hybrid Opening (and Sometimes Closing) System (''HOSS'').

(additions are *italicized;* deletions are [bracketed])

* * * * *

Cboe Exchange, Inc. Rules

* * * * *

Rule 6.2. Hybrid Opening (and Sometimes Closing) System (''HOSS'')

(a)–(b) (No change).

(c) Opening Rotation Period. After the System initiates the opening rotation procedure and sends the Rotation Notice, the System begins the opening rotation period. During the opening rotation period for a series:

(i)–(ii) (No change).

(iii) After a period of time determined by the Exchange for all classes *(which period of time may be no longer than five seconds),* the System opens series of a class in [a random]*the following* order[, staggered over regular intervals of time (the Exchange determines the length and number of these intervals for all classes).]*:*

(A) *ATM and OTM Series with Expirations of 29 to 31 Days. During the initial interval (the Exchange determines the length of this interval for all classes, the length of which may be no longer than three seconds), the System opens:*

(I) at-the-money (''ATM'') puts and a group of out-of-the-money (''OTM'') puts with strike prices closest to the ATM strike price, in a random order;

(II) ATM calls and a group of OTM calls with strike prices closest to the ATM strike price, in a random order; and

(III) alternating groups of further OTM puts and further OTM calls, each in a random order.

During this interval, the System attempts to open any ATM or OTM series that could not open on its first attempt.

(B) *All Other Series. After the initial interval, the System opens all other series, and any series that did not open pursuant to subparagraph (A), in a random order, staggered over regular intervals of time (the Exchange determines the length and number of these intervals for all classes, the length of which intervals may be no longer than two seconds).*

(C) *Definition of ATM. For purposes of subparagraph (A), a put (call) is ATM if its strike price equals or is the first strike above (below) the last disseminated transaction price in the underlying security or index value on the same trading day. If the System begins an opening rotation for a class prior to receiving a disseminated transaction price in the underlying security or index value, the System will open all series in the class pursuant to subparagraph (B).*

Subject to paragraph (d) below, the opening rotation period (including these intervals) may not exceed [60]*30* seconds.

(d)–(h) (No change).

. . . *Interpretations and Policies:*

.01–.07 (No change).

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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 proposed rule change amends the order in which the System opens series for trading. Current Rule 6.2(c)(iii) states, after a period of time after the initiation of the opening rotation (which time is determined by the Exchange for all classes, and may be no longer than five seconds),[5] the System opens series of a class in a random order, staggered over regular intervals of time (the Exchange determines the length and number of these intervals for all classes).[6] The opening rotation period (including these intervals) may not exceed 60 seconds, except as otherwise set forth in the Rule.

Pursuant to the proposed rule change, during an initial interval (the Exchange determines the length of this interval for all classes, which may be no longer than three seconds),[7] the System will first open at-the-money (''ATM'') and out-of-the-money (''OTM'') series with expirations of 29 to 31 days, and then open all remaining series. Specifically, during the first interval, the System will open:

- ATM puts and a group of OTM puts with strike prices closest to the ATM strike price, in a random order;
- ATM calls and a group of OTM calls with strike prices closest to the ATM strike price, in a random order; and
- alternating groups of further OTM puts and further OTM calls, each in a random order.

During this interval, the System attempts to open any ATM or OTM series that could not open on its first attempt.

After the first interval, the System opens all other series, and any OTM and ATM series with expirations of 29 to 31 days that did not open during the first interval, in a random order, staggered over regular intervals of time (the Exchange determines the length and number of these intervals for all classes, the length of which may be no longer than two seconds).[8]

For purposes of this proposed rule change, a put (call) is ATM if its strike price equals or is the first strike above (below) the last disseminated transaction price in the underlying security or index value on the same trading day. If the System begins an opening rotation for a class prior to receiving a disseminated transaction price in the underlying security or index value, the System will open all series in the class pursuant to proposed subparagraph (B) (*i.e.,* all in a random order, staggered over regular intervals of time). Pursuant to Rule 6.2, the opening rotation for most equity and exchange-traded product options will begin after the System receives a disseminated opening trade or quote in the market for the underlying security. Additionally, the opening rotation for certain index options will begin at the later of 8:30 a.m. and the time the System receives a disseminated index value for classes determined by the Exchange. However, for certain classes, the opening rotation will begin at 8:30 a.m. As a result, it is possible the System may not have a value to determine which series are ATM. To avoid delaying the opening of series in these classes, the Exchange believes it is appropriate to open all series in a random order rather than wait for such a value.

Below are examples demonstrating the new opening sequence. For purposes of these examples, assume the ATM strike price is 50. Additionally, assume June expiration series are 30 days away and all other series are more than 31 days away. There will be a one second opening timer delay, an initial

[5] Currently, this time is set to two seconds. The Exchange intends to reduce this time period to one second in June 2018.

[6] Currently, there are two one-second intervals.

[7] The Exchange intends to initially set the length of this interval to 500 milliseconds.

[8] The Exchange intends to initially have 10 intervals of 100 milliseconds each.

interval of 500 milliseconds, and then 10 intervals of 100 milliseconds. Puts will be opened in groups of 4, and calls will be opened in groups of 3 (the first put and call group will also include the ATM strike). Class ABC consists of the following series:

Jun ABC 62 put
Jun ABC 61 put
Jun ABC 60 put
Jun ABC 59 put
Jun ABC 58 put
Jun ABC 57 put
Jun ABC 56 put
Jun ABC 55 put
Jun ABC 54 put
Jun ABC 53 put
Jun ABC 52 put
Jun ABC 51 put
Jun ABC 50 put
Jun ABC 49 put
Jun ABC 48 put
Jun ABC 47 put
Jun ABC 46 put
Jun ABC 45 put
Jun ABC 44 put
Jun ABC 43 put
Jun ABC 42 put
Jun ABC 41 put
Jun ABC 40 put
Jun ABC 39 put
Jun ABC 38 put
Jun ABC 59 call
Jun ABC 58 call
Jun ABC 57 call
Jun ABC 56 call
Jun ABC 55 call
Jun ABC 54 call
Jun ABC 53 call
Jun ABC 52 call
Jun ABC 51 call
Jun ABC 50 call
Jun ABC 49 call
Jun ABC 48 call
Jun ABC 47 call
Jun ABC 46 call
Jun ABC 45 call
Jun ABC 44 call
Jun ABC 43 call
Jun ABC 42 call
Jun ABC 41 call
July ABC 60 put
July ABC 60 call
July ABC 59 put
July ABC 59 call
July ABC 58 put
July ABC 58 call
July ABC 57 put
July ABC 57 call
July ABC 56 put
July ABC 56 call
July ABC 55 put
July ABC 55 call
Aug ABC 60 put
Aug ABC 60 call
Aug ABC 59 put
Aug ABC 59 call
Aug ABC 58 put
Aug ABC 58 call
Aug ABC 57 put
Aug ABC 57 call
Aug ABC 56 put
Aug ABC 56 call
Aug ABC 55 put
Aug ABC 55 call

Example #1—All Series Satisfy Opening Conditions on First Attempt

After the one-second delay, the 500-millisecond interval starts. During that interval, the System opens in a random order the Jun ABC 50, 49, 48, 47, and 46 puts. The System then opens in a random order the Jun ABC 50, 51, 52, and 53 calls. Then, the System opens in a random order the Jun ABC 45, 44, 43, and 42 puts. Then, the System opens in a random order the Jun ABC 54, 55, and 56 calls. Next, the System opens in a random order the Jun ABC 41, 40, 39, and 38 puts. The System then opens in a random order the Jun ABC 57, 58, and 59 calls. After 500 milliseconds, the System opens in a random order over 10 100-millisecond intervals the remaining Jun puts and calls and all Jul and Aug puts and calls.

Example #2—Assume One Series Does Not Open on First Attempt but Does Open on Second Attempt During the Initial Interval

After the one-second delay, the 500-millisecond interval starts. During that interval, the System opens in a random order the Jun ABC 50, 49, 48, 47, and 46 puts. The System then opens in a random order the Jun ABC 50, 51, 52, and 53 calls. Then, the System opens in a random order the Jun ABC 45, 44, and 43, and attempts to but cannot open the Jun ABC 42 put. Then, the System opens in a random order the Jun ABC 54, 55, and 56 calls. Next, the System opens in a random order the Jun ABC 41, 40, 39, and 38 puts. The System then opens in a random order the Jun ABC 57, 58, and 59 calls. The System then opens the Jun ABC 42 put, which did not open on its first attempt. After 500 milliseconds, the System opens in a random order over 10 100-millisecond intervals the remaining Jun puts and calls and all Jul and Aug puts and calls.

Example #3—Assume One Series Does Not Satisfy Opening Conditions During the First Interval

After the one-second delay, the 500-millisecond interval starts. During that interval, the System opens in a random order the Jun ABC 50, 49, 48, 47, and 46 puts. The System then opens in a random order the Jun ABC 50, 51, 52, and 53 calls. Then, the System opens in a random order the Jun ABC 45, 44, and 43, and attempts to but cannot open the Jun ABC 42 put. Then, the System opens in a random order the Jun ABC 54, 55, and 56 calls. Next, the System opens in a random order the Jun ABC 41, 40, 39, and 38 puts. The System then opens in a random order the Jun ABC 57 and 58 calls, and attempts to but cannot open the Jun ABC 59 call. During the initial 500 milliseconds, the System continues to attempt to but cannot open the Jun ABC 59 call. After 500 milliseconds, the System opens in a random order over 10 100-millisecond intervals the Jun ABC 59 call, the remaining Jun puts and calls, and all Jul and Aug puts and calls.

While the System will continue to open series in a random order, during an initial longer interval, the System will open specific groups of series within a random order. The order in which the System opens series for trading is generally immaterial; however, on expiration days for volatility index derivatives, ATM and OTM series with expirations of approximately one month are used to calculate the exercise settlement value of expiring volatility index derivatives as part of the modified opening procedure. The Exchange believes opening these series first will enhance liquidity in those series on expiration days for volatility index derivatives.

Specifically, Market-Makers are the primary liquidity providers in the Exchange's market. The Exchange provides Market-Makers with a tool, the Quote Risk Monitor (''QRM'') they use to control risk of multiple, automatic executions. A QRM event in a class will cause a Market-Maker's quotes in all series in the class to be cancelled (certain events may cause a Market-Maker's quotes in all classes to be cancelled).[9] As a result, a Market-Maker's opening transactions in series not used to calculate an exercise settlement value may cause a QRM event, cancelling the Market-Maker's quotes in all other series in the class, including series used to calculate an exercise settlement value. This reduces liquidity in these series. Similarly, the Exchange has observed larger Market-Maker quote sizes in further OTM puts and calls compared to sizes in less OTM puts and calls and ATM puts and calls, which have higher weightings in the formula used to determine the exercise settlement value of expiring volatility index derivatives in accordance with the applicable volatility index

[9] *See* Rule 8.18.

methodology.[10] If the further OTM puts and calls open prior to the less OTM puts and calls and ATM puts and calls, similar reduced liquidity in those ATM and less OTM puts and calls from QRM events may occur. The Exchange believes the proposed rule change will increase liquidity in all series used to calculate exercise settlement values, which is desirable to ensure these series open at competitive prices on expiration days for volatility index derivatives. While liquidity is important to open all series on the Exchange, given the potential impact on the exercise settlement value determined for expiring volatility index derivatives, the Exchange believes it is appropriate to ensure a fair and orderly opening of the series used to calculate the exercise settlement value.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change merely modifies the order in which the System opens series for trading on the Exchange. The System will continue to open series in a random order; however, initially, it will open series within specific groups in a random order. The Exchange believes the System can open series pursuant to the proposed maximum interval times, as current interval times are under these maximums, and because they are consistent with the proposed maximum of 30 seconds for the entire opening process. These interval times ensure a fast opening of all series, which will benefit investors.

While the order in which the System opens series is generally immaterial (and thus why the Exchange has opened them in a random order), the Exchange believes opening ATM and OTM series with expirations of approximately one month will permit series used to calculate exercise settlement values for expiring volatility index derivatives to open as soon as possible. As discussed above, the Exchange believes this may enhance liquidity in these series on expiration days for volatility index derivatives, which benefits market participants. Additionally, reducing the potential time during which all series in all classes will open benefits all market participants, because market participants will be able to begin trading in all series sooner.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change only modifies the order in which the System will open series for trading. The System will open groups of ATM and OTM series with expirations of approximately one month first, but will continue to open series within those groups in a random order, and then open all in-the-money series in a random order (as is case today with respect to those series). Additionally, pursuant to the proposed rule change, the opening process must be within a shorter time period. The proposed maximum interval times are consistent with current and proposed interval times, and are consistent with the proposed maximum of 30 seconds for the entire opening process (which is shorter than the current maximum). The proposed rule change applies to all classes in the same manner, and only applies to the order in which the System will open series for trading on the Exchange. As discussed above, the Exchange believes this may enhance liquidity in these series on expiration days for volatility index derivatives, which benefits market participants. Additionally, reducing the potential time during which all series in all classes will open benefits all market participants, because market participants will be able to begin trading in all series sooner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2018–046 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.

[10] *See, e.g.,* the VIX methodology at *http://www.cboe.com/micro/vix/vix-index-rules-and-methodology.pdf.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission 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. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR–CBOE–2018–046. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–046 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13978 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83510; File Nos. SR–DTC–2017–022; SR–FICC–2017–022; SR–NSCC–2017–018]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes To Amend the Loss Allocation Rules and Make Other Changes

June 25, 2018.

On December 18, 2017, The Depository Trust Company (''DTC''), Fixed Income Clearing Corporation (''FICC''), and National Securities Clearing Corporation (''NSCC'') (collectively, ''Clearing Agencies''), each filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the loss allocation rules and make other changes (SR–DTC–2017–022, SR–FICC–2017–022, and SR–NSCC–2017–018), respectively (''Proposed Rule Changes''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Changes were published for comment in the **Federal Register** on January 8, 2018.[3] On February 8, 2018, the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Changes.[4] On March 20, 2018, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the Proposed Rule Changes.[6] The Commission did not receive any comments on the Proposed Rule Changes.

Section 19(b)(2) of the Act [7] provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[8] The 180th day for the Proposed Rule Changes is July 7, 2018.

The Commission is extending the period for Commission action on the Proposed Rule Changes. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Changes so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Changes and to take action on the Proposed Rule Changes. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[9]

Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Act [10] and for the reasons stated above, the Commission designates September 5, 2018, as the date by which the Commission should either approve or disapprove proposed rule changes SR–DTC–2017–022, SR–FICC–2017–022, and SR–NSCC–2017–018.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4. On December 18, 2018, the Clearing Agencies each filed these proposals as advance notices (SR–DTC–2017–804, SR–FICC–2017–806, SR–NSCC–2017–806) with the Commission pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) of the Act (''Advance Notices''). On January 30, 2018, the Commission published in the **Federal Register** notices of filing of the Advance Notices. These notices also extended the review periods for the Advance Notices pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act. (12 U.S.C. 5465(e)(1)(H).) *See* Securities Exchange Act Release Nos. 82582 (January 24, 2018), 83 FR 4297 (January 30, 2018) (SR–DTC–2017–804); 82583 (January 24, 2018), 83 FR 4358 (January 30, 2018) (SR–FICC–2017–806); 82584 (January 24, 2018), 83 FR 4377 (January 30, 2018) (SR–NSCC–2017–806). On April 10, 2018, the Commission required further information for consideration of the Advance Notices, pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act, which provided the Commission with a renewed 60-day review period beginning on the date that the information requested is received by the Commission. (12 U.S.C. 5465(e)(1)(D).) As of the date of this release, the Commission has not yet received the requested information.

[3] Securities Exchange Act Release Nos. 82426 (January 2, 2018), 83 FR 913 (January 8, 2018) (SR–DTC–2017–022); 82427 (January 2, 2018), 83 FR 854 (January 8, 2018) (SR–FICC–2017–022); 82428 (January 2, 2018), 83 FR 897 (January 8, 2018) (SR–NSCC–2017–018).

[4] Securities Exchange Act Release No. 82670 (February 8, 2018), 83 FR 6626 (February 14, 2018) (SR–DTC–2017–022; SR–FICC–2017–022; SR–NSCC–2017–018).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Securities Exchange Act Release Nos. 82914 (March 20, 2018), 83 FR 12978 (March 26, 2018) (SR–DTC–2017–022); 82909 (March 20, 2018), 83 FR 12990 (March 26, 2018) (SR–FICC–2017–022); 82910 (March 20, 2018), 83 FR 12968 (March 26, 2018) (SR–NSCC–2017–018).

[7] 15 U.S.C. 78s(b)(2).

[8] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[9] *See supra* note 2.

[10] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13975 Filed 6–28–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83517; File No. SR–PEARL–2018–14]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510 To Extend the Penny Pilot Program

June 25, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 18, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend Rule 510, Interpretations and Policies .01, to extend the pilot program for the quoting and trading of certain options in pennies.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl,* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ™ (''QQQ''), SPDR® S&P 500® ETF (''SPY''), and iShares® Russell 2000 ETF (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007[3] and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2018.[4] The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2018.

In addition to the extension of the Penny Pilot Program through December 31, 2018, the Exchange proposes to extend one other date in the Rule. Currently, Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following January 1, 2018.[5] Because this date has expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2018.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] 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, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor

[11] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[4] *See* Securities Exchange Act Release No. 82391 (December 22, 2017), 82 FR 61622 (December 28, 2017) (SR–PEARL–2017–39) (extending the Penny Pilot Program from December 31, 2017 to June 30, 2018).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following July 1, 2018, will be identified based on trading activity from December 1, 2017, through May 31, 2018.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–PEARL–2018–14 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–PEARL–2018–14. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–PEARL–2018–14 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13983 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83512; File No. SR–NYSEArca–2018–48]

Self-Regulatory Organizations; NYSE Arca Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 6.72–O in Order To Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2018

June 25, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 21, 2018, NYSE Arca Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 6.72–O in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2018. The Pilot Program is currently scheduled to expire on June 30, 2018. The proposed rule change is available on the Exchange's website 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 hereby proposes to amend Commentary .02 to Rule 6.72–O to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2018, through December 31, 2018. The Exchange also proposes that the date to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2018.[5] The Exchange believes that extending the Pilot would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] 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 mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2018. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed 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 mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how this Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to

[4] *See* Securities Exchange Act Release No. 82366 (December 19, 2017), 82 FR 61052 (December 26, 2017) (SR–NYSEArca–2017–141).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2018 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2017 through May 31, 2018. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing.[13] However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. Without a waiver of 30-day operative delay, the Exchange's Pilot Program will expire before the extension of the Pilot Program is operative. The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2018–48. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–48 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13984 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83504; File No. SR–CBOE–2018–045]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Rule 6.2., Hybrid Opening (and Sometimes Closing) System ("HOSS")

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2018, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.2., Hybrid Opening (and Sometimes Closing) System ("HOSS").

(additions are *italicized*; deletions are [bracketed])

* * * * *

Cboe Exchange, Inc. Rules

* * * * *

Rule 6.2. Hybrid Opening (and Sometimes Closing) System ("HOSS")

(a)–(h) (No change).

. . . Interpretations and Policies:

.01 *Modified Opening Procedure for Series Used to Calculate the Exercise/Final Settlement Values of Volatility Indexes.* All provisions set forth in Rule 6.2 remain in effect unless superseded or modified by this Interpretation and Policy .01. On the dates on which the exercise and final settlement values are calculated for options (as determined under Rule 24.9(a)(5) or (6)) or (security) futures contracts on a volatility index (*i.e.,* expiration and final settlement dates), the Exchange utilizes the modified opening procedure described below for all series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts (these option series referred to as "constituent options").

(a) *Strategy Orders.* All orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, *expiring* volatility index options or (security) futures ("strategy orders"), and any change to or cancellation of any such order:

(i)–(ii) (No change).

Whether orders are strategy orders for purposes of this Rule 6.2.01 depends

[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).

upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances.

(b) *Non-Strategy Orders.* All other orders for participation in the modified opening procedure[s] (''non-strategy orders''), and any change to or cancellation of any such order, must be received prior to the applicable cut-off time (as determined by the Exchange on a class-by-class basis) in order to participate at the opening price for the applicable series, which may be no earlier than 8:25 a.m. and no later than the opening of trading in the option series. The Exchange will announce all determinations regarding changes to the applicable non-strategy order cut-off time at least one day prior to implementation.

(c) Market-Makers. A Market-Maker with an appointment in a class with constituent option series may submit bids and offers in those series for bona fide market-making purposes in accordance with Rule 8.7 and the Exchange Act for its market-maker account prior to the open of trading for participation in the modified opening procedure. The Exchange will deem these bids and offers to be non-strategy orders, and will not deem them to be changes to or cancellations of previously submitted strategy orders, if:

(i) The Trading Permit Holder with which the Market-Maker is affiliated has established, maintains, and enforces reasonably designed written policies and procedures (including information barriers, as applicable), taking into consideration the nature of the Trading Permit Holder's business and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and

(ii) when submitting these bids and offers, the Market-Maker has no actual knowledge of any previously submitted strategy orders.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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

Cboe Options and Cboe Futures Exchange, LLC (''CFE'') list options and futures, respectively, on different volatility indexes that are calculated using prices of options traded on Cboe Options.[5] The final settlement value for these derivatives is determined on the morning of their expiration date through a special opening quotation (''SOQ'') of the volatility index using the opening prices of a portfolio of options (for example, the settlement value of VIX options and futures uses the opening prices of a portfolio of S&P 500 Index options (''SPX options'') that expire approximately 30 days later). On the days when the settlement values for these contracts are determined, Cboe Options opens the constituent options[6] for these volatility indexes using the modified Hybrid Opening System (''HOSS'') procedure.[7] The main feature of the modified HOSS procedure used to calculate the exercise/final settlement value of volatility indexes for expiring options and (security) futures that distinguishes it from the normal opening procedure used on all other days is a cutoff time for the entry of strategy orders.[8] By providing market participants with a mechanism to buy and sell constituent options at prices used to calculate the final settlement value of the volatility index derivatives, the volatility index settlement process is ''tradable.''

The volatility index settlement process is patterned after the process used to settle SPX options. On the days SPX options expire, S&P calculates an SOQ of the S&P 500 Index using the opening prices of the component stocks in their primary markets. Market participants can replicate the exposure of their expiring SPX options by entering orders to buy and sell the component stocks of the S&P 500 Index at their opening prices. If they are successful, market participants can effectively construct a portfolio that matches the value of the SOQ. At this point, the derivatives and cash markets converge.

In a very similar way, the exercise settlement value for volatility index derivatives is an SOQ of the volatility index using opening prices of the constituent options used to determine the value of the index. With respect to VIX, the VIX exercise settlement value is calculated using the opening prices of SPX options that expire approximately 30 days later. Analogous to the settlement process for SPX options, market participants can replicate the exposure of their expiring VIX derivatives by entering buy and sell orders in constituent SPX options. If they are successful, market participants can effectively construct a portfolio of SPX options whose value matches the value of the VIX SOQ. By doing so, market participants may make or take delivery of the SPX options that will be used to settle VIX derivatives.

A tradable settlement creates the opportunity to convert the exposure of an expiring VIX derivative into the portfolio of SPX options that will be used to settle the expiring contract. Specifically, some market participants

[5] These volatility indexes include the Cboe Volatility Index (''VIX'') and the Russell 2000 Volatility Index (''RVX''). Options expire on an expiration date and settle to an exercise settlement value, and futures settle on a final settlement date to a final settlement value. For ease of reference, the Exchange will use the options terminology throughout this filing when referring to the ''expiration/final settlement date'' and ''expiration/final settlement value'' for volatility index derivatives.

[6] ''Constituent options'' are the series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures contracts.

[7] *See* Rule 6.2, Interpretation and Policy .01.

[8] Strategy orders are all orders (defined in Rule 1.1(ooo) as a firm commitment to buy or sell option contracts) for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, volatility index options or (security) futures (as discussed below, the proposed rule change is adding ''expiring'' to this definition). In general, the Exchange considers orders to be strategy orders if they are for (a) option series with the expiration that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract; (b) option series spanning the full range of strike prices for the appropriate expiration for option series that will be used to calculate the exercise or final settlement value of the applicable volatility index option or futures contract (not necessarily every available strike price); and (c) put options with strike prices at or less than the ''at-the-money'' strike price and for call options with strike prices greater than or at the ''at-the-money'' strike price. Whether orders are strategy orders depends upon specific facts and circumstances. The Exchange may also deem order types other than those provided above as strategy orders if the Exchange determines that to be the case based upon the applicable facts and circumstances. The strategy order cut-off time may be no earlier than 8:00 a.m. and no later than the opening of trading in the series, and is currently 8:20 a.m. Chicago time. *See* Rule 6.2, Interpretation and Policy .01.

may desire to maintain the vega, or volatility, risk exposure of expiring VIX derivatives. Since VIX derivatives expire 30 days prior to the SPX options used to calculate their settlement value, a market participant may have a vega risk from its portfolio of index positions that the participant wants to continue to hedge after the participant's VIX derivatives expire. To continue that vega coverage following expiration of a VIX derivative, a market participant may determine to trade the portfolio of SPX options used to settle an expiring VIX derivative, since those SPX options still have 30 more days to expiration. This trade essentially replaces the uncovered vega exposure ''hole'' created by an expiring VIX derivative.

Since the VIX settlement value converges with the value of the portfolio of SPX options used to calculate the settlement value of VIX derivatives, trading this SPX option portfolio mitigates settlement risk. This is because, if done properly, the vega exposure obtained in the SPX option portfolio will replicate the vega exposure of the expiring VIX derivative (*i.e.,* elimination of slippage). Because a market participant is converting vega exposure from one instrument (expiring VIX derivative) to another (portfolio of SPX options expiring in 30 days), the market participant is likely to be indifferent to the settlement price received for the expiring VIX derivative. Importantly, trading the next VIX derivative expiration (*i.e.,* rolling) will not accomplish the conversion of vega exposure since that VIX derivative contract would necessarily cover a different period of expected volatility and would be based on an entirely different portfolio of SPX options.

To replicate expiring volatility index derivatives on their expiration dates with portfolios of constituent options, market participants generally submit strategy orders to participate in the modified HOSS procedure on volatility index settlement dates. The Exchange understands that the entry of strategy orders may lead to order imbalances in the option series being used to determine the final settlement value. To the extent (1) market participants seeking to replicate an expiring VIX derivative position are on one side of the market (*e.g.,* strategy order to buy SPX options) and (2) those market participants' orders predominate over other orders during the modified HOSS procedure, those trades may contribute to an order imbalance prior to the open.

To provide market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series, the Exchange established a strategy order cut-off time.[9] The time period after this cut-off time also permits market participants to, among other things, update prices of orders and quotes in response to changing market conditions until the open of trading.[10] Generally, if a series (1) has a market order imbalance, or (2) is at a price that is outside the Exchange prescribed opening width (as described in Rule 6.2(d)), the series will not open for trading. Prior to the open, the Exchange disseminates messages to market participants indicating the expected opening price for a series or imbalance information for that series (as applicable) to further encourage market participants to enter orders and quotes to offset any imbalances, to submit competitively priced bids and offers, and to promote a fair and orderly opening.

In the options market, it is important for Market-Makers to provide liquidity to execute against orders submitted by other market participants. Pursuant to Rule 8.7, a Market-Maker has general obligations to, among other things, engage (to a reasonable degree under existing circumstances) in dealings for the Market-Maker's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.,* an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. Certain types of Market-Makers have obligations to facilitate resolution of imbalances and make competitive markets, and the proposed rule change is consistent with those obligations.[11] As described above, the entry of strategy orders may lead to order imbalances in the option series used to determine the final settlement value for expiring volatility index derivatives. In order for the Exchange's system to open these series for trading (*i.e.,* to resolve order imbalances) and achieve the most competitive pricing in these series, Market-Maker participation in the modified HOSS procedure is important for adding liquidity and promoting a fair and orderly opening and settlement process.

The Exchange understands that some Market-Makers may hesitate to provide liquidity that could resolve order imbalances, out of a concern that adding such liquidity after the strategy order cut-off time could be deemed either a new strategy order or a modification to or cancellation of an existing strategy order. As a result, this perceived risk may lead to reduced liquidity and may exacerbate the time it takes to open a series at a competitive price.[12] The proposed rule change encourages Market-Makers to provide liquidity on volatility index derivative settlement days by explicitly stating in Rule 6.2, Interpretation and Policy .01 that bona fide Market-Maker activity does not constitute either a strategy order or a modification to or cancellation of a previously submitted strategy order during the modified HOSS procedure. The Exchange believes Market-Maker liquidity is important to the resolution of order imbalances on volatility index settlement days and to the orderly opening of series on such days, due to the fact that a series cannot open if there is a market order imbalance. Also, Market-Maker liquidity is desirable to advance the opening of series at competitive prices on volatility index settlement days. The Exchange's system also relies on Market-Maker liquidity to open series for trading. Pursuant to Rule 6.2(d), the Exchange's system will not open a series for trading if there are no Market-Maker quotes present. Additionally, the width of the best Market-Maker quotes on the Exchange must be within a certain price range for the System to open a series for trading. The Exchange believes the proposed rule change will incentivize Market-Maker liquidity on volatility settlement days by explicitly stating in the Rules that providing such liquidity will not be deemed to constitute either submission of a strategy order or modification to or cancellation of a previously submitted strategy order.

Specifically, proposed Rule 6.2, Interpretation and Policy .01(c) states a Market-Maker with an appointment in a class with constituent option series may submit bids and offers in those series for bona fide market-making purposes in accordance with Rule 8.7 and the Securities Exchange Act of 1934 (the ''Act''), for its market-maker account prior to the open of trading for participation in the modified opening

[9] *See* Securities Exchange Act Release Nos. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR–CBOE–2004–86) (established initially for rapid opening system procedure, which is no longer used).

[10] Pursuant to Rule 6.2, Interpretation and Policy .01(b), the Exchange may determine a non-strategy order cut-off time, which may be no earlier than 8:25 a.m. and no later than the opening of trading. The current non-strategy order cut-off time is the opening of trading.

[11] *See, e.g.,* Rules 8.15 and 8.85 (describing obligations of Lead-Market-Makers and Designated Primary Market-Makers, respectively).

[12] *See* Rule 6.2(d).

procedure. The Exchange will deem these bids and offers to be non-strategy orders, and will not deem them to be changes to or cancellations of previously submitted strategy orders, if:

(i) The Trading Permit Holder with which the Market-Maker is affiliated has established, maintains, and enforces reasonably designed written policies and procedures (including information barriers, if applicable), taking into consideration the nature of the business of the Trading Permit Holder and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and

(ii) when submitting these bids and offers, the Market-Maker has no actual knowledge of any previously submitted strategy orders.

In other words, if a Market-Maker submits bids or offers in constituent options on a volatility index derivative settlement day, and if such bids and offers are for its market-maker account and submitted for purposes of its market-making activities on the Exchange (including in accordance with Market-Maker obligations, such as to offset imbalances or provide competitive pricing), the Market-Maker may submit those bids and offers any time prior to the open of trading, including both before and after the strategy order cut-off time. As long as the Trading Permit Holder has appropriate procedures in place both to prevent the Market-Maker from knowing about the submission of strategy orders by other persons within the Trading Permit Holder organization with which it is affiliated, and to prevent other persons from knowing about the Market-Maker's submission of bids and offers, the Exchange will not review such bids and offers for either potential impermissible entry of strategy orders, or cancellations of or modifications to previously submitted strategy orders.

Bona fide Market-Maker activity is generally activity consistent with Market-Maker requirements under the Act and Cboe Options Rules:

• Pursuant to the Act, a market-maker is a specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.[13]

• Pursuant to Rule 8.7, a Market-Maker appointed to a class must, among other things, engage to a reasonable degree under existing circumstances in dealings for the Market-Maker's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.,* an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. Additionally, pursuant to Rule 8.7, all quotes a Market-Maker submits, including prior to the opening, must comply with all requirements, including applicable bid-ask differential and minimum size requirements.[14] Rule 8.7, Interpretation and Policy .01 imposes an ongoing price continuity requirement on Market-Makers that applies through the opening of trading, as well as during regular trading hours.

• In addition to these obligations, Market-Makers also effect transactions for the purpose of hedging, reducing risk of, rebalancing, or liquidating their open positions.[15]

As noted above, the Exchange implemented the strategy order cut-off time for the operational purpose of providing market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series.[16] The Exchange's surveillance procedures to determine market participants' compliance with the strategy order cut-off time are separate and distinct from the Exchange's surveillance procedures to identify potentially manipulative behavior. Therefore, from the Exchange's perspective, whether a Market-Maker's bids and offers constitute strategy orders is distinct from whether the submitting Market-Maker is attempting to engage in manipulative behavior. The classification of bona fide Market-Maker activity as non-strategy orders will have no impact on the Exchange's surveillance procedures to detect activity intended to manipulate the settlement value or violate other Rules. Additionally, all Market-Maker bids and offers, even though not considered strategy orders pursuant to the proposed rule change, will continue to be subject to Exchange surveillance procedures that monitor trading in the option series used to calculate volatility index settlement values on expiration dates, as well as surveillance procedures that monitor Market-Maker activity for compliance with Market-Maker obligations in the Rules. This activity will merely be excepted from Exchange surveillance procedures determining compliance with the operational strategy order cut-off time.

The Exchange believes Market-Makers are more likely to interact with and resolve order imbalances on volatility index settlement days if they can be confident that their bids and offers submitted for that purpose will not be deemed strategy orders or cancellations of or modifications to previously submitted strategy orders. As discussed above, the purpose of the strategy order cut-off time is to provide market participants, including Market-Makers, with sufficient time to address imbalances created by strategy orders. Additionally, as discussed above, pursuant to Rule 6.2(d), whether a series opens depends on the presence of Market-Maker quotes at prices no wider than an acceptable price range. Market-Makers are an important source of liquidity on the Exchange, and also have various obligations with which they must comply. The proposed rule change will provide a Market-Maker with an opportunity to provide liquidity on volatility settlement dates and to satisfy their Market-Maker obligations, without concern that the Exchange may consider such activity to constitute the placing of, or cancellations to or modifications of, strategy orders, even if the Trading Permit Holder organization with which the Market-Maker is affiliated submitted a strategy order.

The purpose of this proposed change is to accommodate the fact that the Trading Permit Holder with which the Market-Maker is affiliated may submit a strategy order while the Market-Maker may also be submitting bids and offers to accommodate a fair and orderly opening process, by among other things, resolving market order imbalances and submitting competitively priced bids and offers.

For example, a Trading Permit Holder organization may have an SPX Market-Maker and a separate volatility trading desk. During the modified opening procedure on a volatility settlement day, the trading strategy of the SPX Market-Maker is to provide markets in SPX options (both before and after the strategy order cut-off time), and the trading strategy of the volatility trading desk may be to replicate Vega exposure by replacing its expiring VIX options positions with positions in the SPX

[13] 15 U.S.C. 78c(a)(38); *see also* 12 U.S.C. 1851(d)(1)(B) (market-making is intended to service ''the reasonably expected near-term demand'' of other parties).

[14] Rule 6.2, Interpretation and Policy .02 permits the Exchange to set different minimum quote size and bid-ask differential requirements for opening quotes as those for intraday quotes.

[15] *See, e.g.,* Rule 8.7, Interpretation and Policy .03.

[16] *See supra* note 9.

constituent series. To replicate its Vega exposure, the volatility trading desk may enter strategy orders prior to the strategy order cut-off time. These are separate and distinct trading strategies. If the Trading Permit Holder organization has reasonable policies and procedures in place such that the SPX Market-Maker has no knowledge of the volatility trading desk's submission of strategy orders, and that the volatility trader has no knowledge of the SPX Market-Maker's submission of bids and offers, the Exchange believes it is appropriate for the SPX Market-Maker's bids and offers to not be deemed strategy orders, or the modification to or cancellation of the strategy order submitted by its affiliated volatility trading desk.

The Exchange does not believe it is necessary to restrict the bona fide market-making activities of a Market-Maker within its appointed classes due to other unrelated trading activities that may involve submissions of orders deemed to be strategy orders of which the Market-Maker has no actual knowledge. The proposed rule change expressly provides that activity related to a Market-Maker's market-making activity in an appointed class will not constitute the submission of a strategy order or the cancellation of or modification to a previously submitted strategy order.

The proposed rule change makes clear that a Market-Maker's submission of bids and offers for bona fide market-making purposes in constituent series is permitted on volatility settlement days through the open of trading in the same manner as it is permitted in all in series in its appointed classes at all other times. This will encourage Market-Makers to continue to submit bids and offers through the open, despite other trading activity within the Trading Permit Holder organization. This will also ensure Market-Makers can respond to imbalances and update their quotes [17] in accordance with their market-making dealings and obligations. The Exchange believes this will contribute to price transparency and liquidity in the option series at the open, and thus will promote a fair and orderly opening on volatility index settlement days. The Exchange continuously evaluates the modified HOSS procedure to identify potential enhancements, and intends to modify the procedure as it deems appropriate to contribute to a fair and orderly opening process. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change would not eliminate a Market-Maker's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements of Rule 4.18. The Exchange will continue to conduct surveillance to monitor trading in the option series used to calculate volatility index settlement values on expiration dates, including but not limited to, monitoring entry of strategy orders, or modifications to strategy orders, following the cut-off time, as well as compliance with other Rules.

The proposed rule change also makes nonsubstantive changes to add paragraph headings and numbering.

Additionally, the proposed rule change modifies Interpretation and Policy .01(a) to state that ''strategy orders'' means all orders for participation in the modified opening procedure that are related to positions in, or a trading strategy involving, expiring volatility index options or (security) futures. The addition of the word ''expiring'' is a codification of the Exchange's longstanding interpretation of the term strategy order. As discussed above, to replicate expiring volatility index derivatives on their expiration dates with options portfolios, market participants generally submit strategy orders to participate in the modified HOSS opening process on volatility index settlement dates. The addition of the word ''expiring'' is consistent with the introductory paragraph in Interpretation and Policy .01, which states the modified HOSS procedure applies to series used to calculate the exercise/final settlement value of the volatility index for expiring options and (security) futures, and demonstrates the rule is meant to refer to orders that relate to strategies involving expiring volatility index derivatives. Therefore, the proposed codification is consistent with this general practice, as well as the current rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[18] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [20] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed change will increase liquidity on volatility index settlement dates, as it will remove an impediment that may discourage Market-Makers from submitting bids and offers to offset imbalances and update the prices of their quotes in response to changing market conditions prior to the open. The Exchange believes this additional liquidity may contribute to a fair and orderly opening by increasing execution opportunities, reducing imbalances in constituent options, and increasing the presence of quotes within the acceptable price range, which would benefit all market participants who trade in the volatility index derivatives and the constituent options. The Exchange does not believe it is necessary to restrict the bona fide market-maker activities of a Market-Maker due to other unrelated trading activities by the Trading Permit Holder organization with which it is affiliated. The Exchange notes that the proposed rule change would not impact a Market-Maker's requirements to abide by Exchange Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements

[17] As noted above, the Exchange's system will not open a series if there is no quote or if the opening quote or price is outside an acceptable price range.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

of Rule 4.18. As a result, the Exchange does not believe that proposed rule change will be burdensome on Market-Makers.

The Exchange believes the proposed rule change will contribute to price transparency and liquidity in the option series at the open, and thus a fair and orderly opening on volatility index settlement days. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change to add the term ''expiring'' to the definition of strategy orders is merely a codification of a current Exchange interpretation and is consistent with the definition of constituent options in the current rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options 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. Because of the importance of Market-Maker liquidity in the options market and the Exchange's need for competitive quotes to open a series, the Exchange believes it is appropriate for Market-Makers' bids and offers prior to the opening of trading, including after the strategy order cut-off time, not be considered strategy orders, or cancellations to or modifications of previously submitted strategy orders. As discussed above, Market-Makers are subject to various obligations under the Rules, and the proposed rule change provides them with the ability to satisfy these obligations without the risk of their market-making activity being deemed to constitute strategy orders or modifications to or cancellations of strategy orders. The requirement in the proposed rule change that the Trading Permit Holder with which a Market-Maker is affiliated must establish, maintain, and enforce policies and procedures reasonably designed to ensure the Market-Maker will not have knowledge of the submission of strategy orders is consistent with requirements of Rule 4.18. As a result, the Exchange does not believe the proposed rule change will be burdensome on Market-Makers. The Exchange does not believe it is necessary to restrict the bona fide market-maker activities of a Trading Permit Holder organization due to its other unrelated trading activities. The proposed rule change has no impact on intermarket competition, as it applies to orders and quotes submitted to an SOQ process the Exchange conducts prior to the open of trading in certain classes.

Cboe Options believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes the proposed rule change will contribute to price transparency and liquidity in constituent options at the open on volatility index settlement days, and thus to a fair and orderly opening on those days. A fair and orderly opening, and increased liquidity, in these series benefits all market participants who trade in the volatility index derivatives and the constituent options.

The proposed rule change to add the term ''expiring'' to the definition of strategy orders has no impact on competition, as it is merely a codification of a current Exchange interpretation and is consistent with the definition of constituent options in the current rule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[21] and subparagraph (f)(6) of Rule 19b–4 thereunder.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[21] 15 U.S.C. 78s(b)(3)(A)(iii).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission 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. The Exchange has satisfied this requirement.

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–CBOE–2018–045 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–CBOE–2018–045. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–045 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13977 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83516; File No. SR–MRX–2018–21]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Rules Pertaining to Co-Location and Direct Connectivity

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the Exchange's rules pertaining to co-location and direct connectivity, which are presently at Section VI, subsections A (co-location) and B–D (direct connectivity) of the Exchange's Schedule of Fees, to the Exchange's new rulebook shell, entitled ''General Rules,'' at new General 8 (''Connectivity''), Sections 1 and 2, respectively.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.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 relocate its rules governing co-location and direct connectivity services, which presently comprise Section VI, subsections A (co-location) and B–D (direct connectivity) of the Exchange's Schedule of Fees. The Exchange proposes to establish, within its new rulebook shell,[3] a new General 8 heading, entitled ''Connectivity,'' to renumber Section VI, subsection A as Section 1 thereunder, and to renumber Section VI, subsections B, C, and D as Section 2(a), (b), and (c) thereunder.[4] The Exchange also proposes to update internal cross-references in the renumbered Rules.

The Exchange considers it appropriate to relocate these Rules to better organize its Rulebook. The other Affiliated Exchanges intend to propose similar reorganizations of their co-location and direct connectivity rules so that these rules will be harmonized among all of the Affiliated Exchanges.

The relocation of the co-location and direct connectivity rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that moving the co-location and direct connectivity rules to their new location will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers and make conforming cross-reference changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way its Rulebook is organized, providing ease of reference in locating co-location and direct connectivity rules, and harmonizing the Exchange's Rules with those of the other Affiliated Exchanges. As previously stated, the proposed Rule relocation is non-substantive.

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 intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges: The Nasdaq Stock Exchange, LLC; Nasdaq BX, Inc.; Nasdaq PHLX, LLC; Nasdaq ISE, LLC; and Nasdaq GEMX, LLC (together with MRX, the ''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82172 (November 29, 2017), 82 FR 57495 (December 5, 2017) (SR–MRX–2017–26).

[4] The Exchange notes that as a consequence of this proposal, it will list its fees, in part, in Section VI of the Rulebook and, in part, in General 8.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief

Continued

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The proposed rule change merely relocates the co-location and direct connectivity rules in the Exchange's Schedule of Fees and updates rule cross-references. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2018–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2018–21, and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83513; File No. SR–ICC–2018–006]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to Amending the ICC Clearing Rules Regarding Mark-to-Market Margin

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 13, 2018, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by ICC. 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, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed changes is to make changes to the ICC Clearing Rules (the ''ICC Rules'') to more clearly characterize Mark-to-Market Margin payments as settled-to-market rather than collateralized-to-market.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

(a) Purpose

ICC proposes revisions to Chapters 4, 8, and 20 of the ICC Rules to more clearly characterize Mark-to-Market Margin payments as settlement payments (''settled-to-market'') rather

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

than collateral (''collateralized-to-market''). Under the settled-to-market model, the transfer of Mark-to-Market Margin constitutes a settlement of the contract's outstanding exposure, with the receiving party taking outright title to the Mark-to-Market Margin and the transferring party retaining no rights to such margin. Under the collateralized-to-market model, the transfer of Mark-to-Market Margin constitutes a pledge of collateral, such that the transferring party has a right to reclaim the collateral and the receiving party has an obligation to return the collateral.[3]

ICC previously revised the Rules in 2015 to clarify that Mark-to-Market Margin constituted a settlement payment. Such revisions did not result in a change in the manner in which Mark-to-Market Margin was calculated, paid or collected, and were intended to provide further clarity regarding the finality of ICC's settlement cycle.[4] ICC is proposing additional clarifying changes to the Rules. As with the prior changes, the proposed amendments do not change the manner in which Mark-to-Market Margin is calculated, or other current ICC operational practices. Rather, such changes consist of additional revisions to terminology to further clarify the legal characterization that payments of Mark-to-Market Margin represent settlement rather than collateral payments. These clarifying changes result from further legal analysis with respect to ICC's characterization of Mark-to-Market Margin payments as settlement rather than as posting of collateral, as requested by its Clearing Participants (''CPs''). The proposed revisions are described in detail as follows.

ICC proposes revising Rule 401 to reference Mark-to-Market Margin Balance, a new term that is defined in Rule 404 and refers to the aggregate amount of Mark-to-Market Margin paid or received. The term is used in several calculations, avoids the need to repeat the definition, and allows ICC to more clearly and fully describe specifics pertaining to its Mark-to-Market Margin calculation in a single section without combining it with other concepts. ICC proposes adding language to Rule 401(a), which governs House Margin, to state that ICC calculates a net amount of Mark-to-Market Margin by subtracting a CP's Mark-to-Market Margin Balance from a CP's Mark-to-Market Margin Requirement. ICC proposes corresponding changes referencing Mark-to-Market Margin Balance in Rule 401(b)(ii), which covers Client-Related Mark-to-Market Margin. Such changes are not intended to modify the current calculation of Mark-to-Market Margin, or other operational practices, but, instead, replace certain specifics relating to ICC's Mark-to-Market Margin calculation with the defined term. The amendments do not change the manner in which Initial Margin is calculated, posted and held.

Further, ICC proposes to specify that a CP's Mark-to-Market Margin Balance is adjusted by an amount called the price alignment amount in revised Rule 401(g). Specifically, ICC proposes to state that it will pay or charge a CP price alignment amounts on any Mark-to-Market Margin and interest on any cash Initial Margin at a rate that may be negative. A price alignment amount is economically equivalent to the ''interest'' that ICC pays or charges a CP for any net Mark-to-Market Margin transferred between the parties under current Rule 401(g). However, since the term interest may be more typically associated with collateral, ICC proposes to refer to such an amount as price alignment to avoid confusion over the proper characterization of Mark-to-Market Margin as settlement payments.[5] Such change will not affect operations, since ICC will continue to pay or charge a CP an amount, which serves the same purpose and is calculated identically, for any net Mark-to-Market Margin transferred between the parties. ICC also proposes separate clarifying language to note that the rate at which it pays or charges such an amount may be negative, to more clearly address the possibility of negative market rate environments.

ICC proposes to specifically reference the applicable category of margin to avoid confusion over the proper characterization of Mark-to-Market Margin under the ICC Rules. ICC proposes to update Rule 401(h) to refer to substitutions of Initial Margin, and Rule 401(l) to refer to settlement finality in relation to Mark-to-Market Margin. The proposed changes to Rule 402, which governs ICC's rights with respect to the use of margin, exclude Mark-to-Market Margin from subsections (a) and (b), remove details relating to Mark-to-Market Margin from subsection (b), and specify subsection (c)'s applicability to Initial Margin. ICC proposes adding language to Rule 402(e) to more clearly state that Mark-to-Market Margin payments constitute a settlement. Further, ICC proposes adding new subsection (c) to Rule 404 to define Mark-to-Market Margin Balance as a sum equal to the Mark-to-Market Margin value transferred by the CP to ICC minus the Mark-to-Market Margin value transferred by ICC to the CP. To avoid uncertainty, ICC also proposes to specifically reference the applicable category of margin in Rule 406(c). Namely, ICC proposes to clarify that the requirements set forth in Rule 406(c) regarding Client-Related Positions apply to Initial Margin.

ICC proposes clarifications and conforming changes to Chapters 8 and 20 of the ICC Rules. ICC proposes clarifying language in Rule 801(a)(i) to refer to the transfer of Mark-to-Market Margin to avoid confusion over the proper characterization of Mark-to-Market Margin as settlement payments, since ICC considers the loss after the application of Initial Margin and taking into account settlement of Mark-to-Market Margin to be uncollateralized loss. Under the proposed updates, Rule 808 includes a conforming reference to Mark-to-Market Margin Balance. The proposed changes to Rule 810(e) replace terminology that is commonly used in conjunction with collateral to avoid confusion over the proper characterization of Mark-to-Market Margin as settlement payments. ICC proposes to clarify in Rule 20–605(c)(i)(B), which specifies the resources to be used to cover losses with respect to Client-Related Positions, that ICC will use the defaulting CP's Client-Related Mark-to-Market Margin, to the extent not previously applied to pay Mark-to-Market Margin to other CPs.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is

[3] Use of a settled-to-market model, rather than a collateralized-to-market model, is consistent with requirements applicable to a derivatives clearing organization, as interpreted by Commodity Futures Trading Commission (''CFTC'') staff. CFTC Interpretive Letter No. 17–51 (Oct. 12, 2017) (''CFTC Letter''). Use of a settled-to-market model also may result in more favorable capital treatment for positions in cleared derivatives for market participants that are subject to regulations of U.S. banking supervisors implementing the Basel III capital framework. See Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Regulatory Capital Treatment of Certain Centrally-cleared Derivative Contracts Under Regulatory Capital Rules (Aug. 14, 2017).

[4] SR–ICC–2015–008.

[5] See CFTC Letter, supra, for a discussion of the use of price alignment amount instead of price alignment interest.

[6] 15 U.S.C. 78q–1(b)(3)(F).

responsible; and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17A(b)(3)(F),[7] because ICC believes that the proposed rule changes will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, and contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. The proposed changes to the ICC Rules are consistent with the current calculation of Mark-to-Market Margin and related operational practices and are intended to more clearly reflect the legal characterization of Mark-to-Market Margin payments as settlement rather than collateral payments. The proposed changes are designed to add certainty to ICC's Rules by incorporating clarifying language and changes to avoid a potential mischaracterization of Mark-to-Market Margin payments. The proposed revisions will provide market participants with certainty surrounding ICC's treatment of Mark-to-Market Margin, which will facilitate compliance with market participants' own capital requirements and therefore further the public interest. As such, the proposed changes provide additional clarity and transparency in the ICC Rules and are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)[8] of the Act.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition. The changes, which further clarify that payments of Mark-to-Market Margin represent settlement rather than collateral payments, result in no operational changes and apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

[7] Id.

[8] Id.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice 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, security-based swap submission, or advance notice 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–ICC–2018–006 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–ICC–2018–006. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2018–006 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13985 Filed 6–28–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83514; File No. SR–GEMX–2018–22)

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Exchange's Rules Pertaining to Co-Location and Direct Connectivity

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 relocate the Exchange's rules pertaining to co-location and direct connectivity, which are presently at Section IV, subsections D (co-location) and E–G (direct connectivity) of the Exchange's Schedule of Fees, to the Exchange's new rulebook shell, entitled ''General Rules,'' at new General 8 (''Connectivity''), Sections 1 and 2, respectively.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to relocate its rules governing co-location and direct connectivity services, which presently comprise Section IV, subsections D (co-location) and E–G (direct connectivity) of the Exchange's Schedule of Fees. The Exchange proposes to establish, within its new rulebook shell,[3] a new General 8 heading, entitled ''Connectivity,'' to renumber Section IV, subsection D as Section 1 thereunder, and to renumber Section IV, subsections E, F, and G as Section 2(a), (b), and (c) thereunder.[4] The Exchange also proposes to update internal cross-references in the renumbered Rules.

The Exchange considers it appropriate to relocate these Rules to better organize its Rulebook. The other Affiliated Exchanges intend to propose similar reorganizations of their co-location and direct connectivity rules so that these rules will be harmonized among all of the Affiliated Exchanges.

The relocation of the co-location and direct connectivity rules is part of the Exchange's continued effort to promote efficiency and conformity of its processes with those of its Affiliated Exchanges. The Exchange believes that moving the co-location and direct connectivity rules to their new location will facilitate the use of the Rulebook by Members of the Exchange who are members of other Affiliated Exchanges. Moreover, the proposed changes are of a non-substantive nature and will not amend the relocated rules other than to update their numbers and make conforming cross-reference changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by improving the way its Rulebook is organized, providing ease of reference in locating co-location and direct connectivity rules, and harmonizing the Exchange's Rules with those of the other Affiliated Exchanges. As previously stated, the proposed Rule relocation is non-substantive.

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 intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members' navigation and reading of the rules across the Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The proposed rule change merely relocates the co-location and direct connectivity rules in the Exchange's Schedule of Fees and updates rule cross-references. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[3] Recently, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges: The Nasdaq Stock Exchange, LLC; Nasdaq BX, Inc.; Nasdaq PHLX, LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC (together with GEMX, the ''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82171 (November 29, 2017), 82 FR 57516 (December 5, 2017) (SR–GEMX–2017–54).

[4] The Exchange notes that as a consequence of this proposal, it will list its fees, in part, in Section IV of the Rulebook and, in part, in General 8.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission 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. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2018–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2018–22. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2018–22, and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman

Assistant Secretary.

[FR Doc. 2018–13986 Filed 6–28–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83511; File No. SR–DTC–2018–005]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the DTC Operational Arrangements To Add Clarifying Text Relating to the Processing of Unit Investment Trust Securities Through the DTC Investor's Voluntary Redemptions and Sales Service

June 25, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 20, 2018, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. 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

The proposed rule change[3] consists of proposed modifications to the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (''OA'')[4] to provide enhanced transparency within DTC's Procedures[5] relating to requirements for Securities issued by unit investment trusts (''Units'') to be processed through DTC's Investor's Voluntary Redemptions and Sales Service (''IVORS''), as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change consists of proposed modifications to the OA to provide enhanced transparency within the DTC Procedures relating to DTC's requirements for Units to be processed through IVORS, as discussed below.

Background

A unit investment trust is an investment company that buys and holds a generally fixed portfolio of stocks, bonds or other securities for a fixed period of time. Units are sold by a sponsor, which is the issuer of the Units, to investors who receive a share of principal and dividends, or interest. When Units mature, an investor may redeem matured Units with the transfer agent for the Units, or sell Units to the sponsor for a cash payment (such redemptions and sales jointly referred to herein as ''Redemptions'').[6] The sponsor may also allow a holder of maturing Units to ''rollover'' the Units by redeeming the maturing Units for a comparable issue of Units (''Rollover'').

Units that meet DTC's eligibility requirements[7] may be Deposited for book-entry services at DTC and be held by Participants on behalf of investors. Redemptions and Rollovers of Units held at DTC must be processed through IVORS.[8] IVORS allows a Participant to

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (''Rules''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf.*

[4] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.*

[5] Pursuant to the Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, *supra* note 3, at 13.

[6] *See* Securities Exchange Act Release No. 39852 (April 10, 1998), 63 FR 19545 (April 20, 1998) (''1998 Release'').

[7] *See* OA, *supra* note 4 at 1–3 (setting forth requirements for Securities to be made eligible for DTC book-entry services).

[8] *See* OA, *supra* note 4 at 43–44.

surrender Units for value via book-entry, which Units are processed in accordance with standing instructions (''Standing Instructions'') provided by the sponsor or transfer agent for the Units through DTC's Participant Terminal System (''PTS''),[9] an electronic interface that allows Participants to submit instructions to DTC and make inquiries in DTC's system. The transfer agent and the sponsor must each maintain a DTC Participant Account in order to facilitate the settlement of Redemptions.[10]

In this regard, and as approved in the 1998 Release, in order to be eligible for processing through IVORS, (i) Units must be DTC-eligible and held in DTC's FAST program,[11] (ii) the transfer agent, which is the Fast Agent for the Units, must be a DTC Participant and (iii) the sponsor, or the sponsor's clearing agent, *i.e.,* a Participant that acts on the sponsor's behalf with respect to the settlement of transactions in Units issued by the sponsor, must be a DTC Participant (''IVORS Eligibility Requirements'').[12]

As indicated above, the OA currently states the requirement that IVORS must be used for the processing of Redemptions and Rollovers for Units held at DTC. The applicable OA text does not include references to requirements relating to IVORS processing that were approved in the 1998 and 2004 Releases, in particular: (i) The use of Standing Instructions by a sponsor and/or FAST Agent [13] and (ii) the IVORS Eligibility Requirements.[14] Pursuant to this rule filing, in order to provide enhanced transparency within the OA to users of DTC services with regard to the use of IVORS for the processing of Redemptions and Rollovers, DTC proposes to amend the OA to include text stating these requirements.

In addition, currently existing text in the OA relating to the processing of Units uses the term ''UIT'' interchangeably to describe both a unit investment trust and Units. In order to further enhance the transparency of the text of the Subject Section, as defined below, to more clearly distinguish between unit investment trusts and the securities issued by them, DTC would revise the applicable OA text to define Securities issued by unit investment trusts as ''Units.'' The text would continue to refer to unit investment trusts as UITs.

Proposed Changes to the OA

Pursuant to the proposed rule change, DTC would amend the OA to revise Section VI.C.1.a. (Use of DTC's Investor's Voluntary Redemptions and Sales to sponsor) (''Subject Section''), relating to Redemption and Rollover processing through IVORS, to add text stating (i) the IVORS Eligibility Requirements and (ii) a provision relating to the processing of Redemptions and Rollovers in accordance with Standing Instructions provided by the sponsor or FAST Agent for the Units, as described above. Specifically, the proposed rule change would add the following within the existing text of that section as it relates to the description of Redemption and Rollover activities:

''IVORS will only be available for these activities if (1) the subject Unit is DTC-eligible, (2) the subject Unit is held through the FAST program, (3) the FAST Agent for the Unit is a Participant of DTC, and (4) the Unit's lead sponsor or its clearing agent is a Participant. Redemptions and rollovers are processed in accordance with standing instructions provided by the FAST Agent and/or sponsor of the Unit through PTS.''

In addition, DTC would revise the text of the Subject Section to define Securities issued by unit investment trusts (*i.e.,* Units, as defined above) as ''Units,'' as described above.

Effective Date

The proposed rule change would become effective upon filing with the Commission.

2. Statutory Basis

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (''Act'') [15] requires that the rules of the clearing agency be designed, *inter alia,* to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change is consistent with this provision of the Act because by adding text within the Procedures set forth in the OA regarding DTC's requirements for the processing of Redemptions and Rollovers of Units through IVORS and more clearly distinguishing in the text of the Subject Section between unit investment trusts and Units, the proposed rule change would provide enhanced transparency for Participants with respect to the Procedures relating to such processing, including better facilitating Participants' understanding of the requirements relating to the processing of Units held by them at DTC. Therefore, by providing Participants with enhanced transparency with regard to the Procedures relating to the processing of Redemptions and Rollovers of Units through IVORS, and therefore facilitating Participants ability to understand the requirements relating to the processing of Units held by them at DTC, DTC believes that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions consistent with the Act.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact on competition. The proposed rule change would merely provide enhanced transparency with respect to existing Procedures relating to the processing of Redemptions and Rollovers through IVORS by adding text to the OA that is consistent with requirements previously approved by the Commission.[16] Therefore, the proposed rule change would not affect the rights or obligations of Participants, and as such, would not impact competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to this proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[9] *See* 1998 Release, *supra* note 6, and Securities Exchange Act Release No. 50279 (August 27, 2004), 69 FR 54169 (''2004 Release'').

[10] *See id.*

[11] DTC's FAST program allows a transfer agent which is approved by DTC to be a ''FAST Agent'' to act as custodian for DTC and increase or decrease the amounts of a balance certificate representing Securities eligible for DTC book-entry services. *See* OA, *supra* note 4 at 15.

[12] *See* 1998 Release, *supra* note 6.

[13] *See supra* note 9.

[14] *See supra* note 12.

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] *See supra* note 9.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2018–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2018–005. 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 website (*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 website 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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2018–005 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13980 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83507; File No. SR–NYSEAMER–2018–33]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 960NY in Order To Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2018

June 25, 2018.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 21, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2018. The Pilot Program is currently scheduled to expire on June 30, 2018. The proposed rule change is available on the Exchange's website 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 hereby proposes to amend Commentary .02 to Rule 960NY to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2018, through December 31, 2018. The Exchange also proposes that the date to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2018.[5] The Exchange believes that extending the Pilot would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] 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

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 82358 (December 19, 2017), 82 FR 61054 (December 26, 2017) (SR–NYSEAMER–2017–38).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2018 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2017 through May 31, 2018. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2018. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed 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 mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how this Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing.[13] However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. Without a waiver of 30-day operative delay, the Exchange's Pilot Program will expire before the extension of the Pilot Program is operative. The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

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–NYSEAMER–2018–33 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–NYSEAMER–2018–33. 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 website (*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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–33 and should be submitted on or before July 20, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–13979 Filed 6–28–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submitting it to OMB for approval, and to allow 60 days for public comment in response to the notice. SBA initially published this required notice on April 2, 2018. SBA is republishing the notice to address the two comments it received requesting greater detail on the information to be collected and to provide an additional 60 days for public comment.

DATES: Submit comments on or before August 28, 2018.

ADDRESSES: Send all comments to Adrienne Grierson, Deputy Director, Office of Credit Risk Management, Small Business Administration, at *lender.oversight@sba.gov.*

FOR FURTHER INFORMATION CONTACT: Adrienne Grierson, Deputy Director, Office of Credit Risk Management at *lender.oversight@sba.gov* or 202–205–6573, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA's Office of Credit Risk Management (OCRM) is responsible for the oversight and supervision of the SBA operations of approximately 4000 7(a) Lenders, Certified Development Companies (''CDCs''), and Microloan Intermediaries (''Intermediaries''), that participate in SBA's business loan programs and, for enforcement of the applicable rules and regulations. Currently, the agency guarantees more than $90 billion dollars in small business loans through these programs. The information collection described in detail below helps OCRM protect the safety and soundness of the business loan programs and taxpayer dollars.

In general, SBA collects information in connection with PARRiS [1] reviews for 7(a) Federally-regulated Lenders, SMART [2] reviews for CDCs, and PARRiS Safety and Soundness Examinations for SBA Supervised Lenders including Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NFRLs).[3] SBA also requests certain information when it conducts Delegated Authority Reviews of 7(a) Lenders and CDCs, and Microloan Intermediary Site Visits. The discussion below identifies the nature of the information to be collected for each type of lender and the related review or examination. In addition, SBA has created separate lists, which are also discussed below, to clearly identify the information to be collected.

I. 7(a) Lender and CDC PARRIS and SMART Analytical and Full Reviews and Safety and Soundness Exams

A. Common Information Collected

For all Analytical Reviews, Full Reviews, and Safety and Soundness examinations [4] of 7(a) lenders and CDCs, as applicable, in general, SBA requests information related to the lender's or CDC's management and operation, eligibility of its SBA loans for SBA guaranty, compliance with SBA Loan Program Requirements, credit administration, and performance of its SBA loan portfolio.

1. *Management and Operations:* The information requested generally includes the SBA program organization chart with responsibilities, business plan, financial and program audits, evidence of lender compliance with regulatory orders and agreements (if applicable and as appropriate), and staff training on SBA lending.

2. *Eligibility and Credit Administration:* In reviewing these areas, SBA primarily requests lender's or CDC's policies, loan sample files; independent loan reviews; loan credit scoring and risk rating methodologies; and information on loans approved as exceptions to policy.

3. *Compliance with Loan Program Requirements:* Here, SBA collects information on services and fees charged for Third-party vendors,[5] lender's FTA [6] trust account, and lender's use of the System of Awards Management to perform agent due diligence.

4. *Portfolio Performance:* In considering lender or CDC portfolio performance, SBA requests that lenders provide a listing of loans indicating those past due, those with servicing actions, individual risk ratings, and those in liquidation or purchased for SBA to compare with SBA data. SBA also requests that lenders provide an explanation for risks identified (*e.g.,* identified by high risk metrics or PARRiS flags triggered).

Further detail on the information SBA collects in Analytical and Full Reviews and Safety and Soundness Exams is contained in the SBA Supervised Lender Safety and Soundness Examination/Full Review Information Request; 7(a) Lender PARRiS Analytical Review Information Request; CDC SMART Analytical Review Information Request; 7(a) Lender PARRiS Full Review Information Request; and, CDC SMART Full Review Information Request. Each Information Request document is available upon request.

B. SBA Supervised Lender Supplemental Information for Safety and Soundness Exams

SBA is the primary federal regulator for SBA licensed SBLCs and NFRLs that participate in the 7(a) program.[7]

[16] 17 CFR 200.30–3(a)(12).

[1] PARRiS refers to the specific risk components reviewed for 7(a) Lenders: (i) Portfolio Performance; (ii) Asset Management; (iii) Regulatory Compliance; (iv) Risk Management; and (v) Special Items.

[2] SMART refers to the specific risk components reviewed for Certified Development Companies: (i) Solvency and Financial Condition; (ii) Management and Board Governance; (iii) Asset Quality and Servicing; (iv) Regulatory Compliance; and (v) Technical Issues and Mission.

[3] SBLCs and NFRLs are defined in 15 U.S.C. 632(r) and 13 CFR 120.10.

[4] Safety and Soundness Examinations are only performed on SBA Supervised Lenders in the 7(a) program. SBA Supervised Lenders include SBA licensed Small Business Lending Companies and Non-Federally Regulated Lenders as defined in 13 CFR 120.10. Analytical Reviews and Full Reviews are performed on 7(a) Lenders and CDCs.

[5] For purposes of this notice, Third-party vendors include, for example, Loan Agents (*e.g.,* Packagers and Lender Service Providers) and Professional Managers with management contracts.

[6] FTA refers to SBA's Fiscal and Transfer Agent. 7(a) Lenders that sell SBA loans in the Secondary Market are required by the terms of the Form 1086, Secondary Participation Guaranty Agreement, to deposit the guaranteed portion of loan payments in a segregated account for the benefit of investors.

[7] SBA Supervised Lenders are a relatively small subset of 7(a) Lenders. 7(a) Lenders include SBA Supervised Lenders and Federally Regulated 7(a) Lenders (*i.e.,* those lenders regulated by the federal bank regulators—Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Federal Reserve Board, the National Credit Union Administration, and the Farm Credit Administration).

Because SBA is the primary federal regulator, SBA performs comprehensive exams that require information in addition to that referenced in Section I.A. Specifically, for SBA Supervised Lender examinations, SBA additionally requests corporate governance documents and information on the lender's financial condition, internal controls and risk mitigation. SBA also requests information on higher risk loans, payments related to loans in loan sample, fidelity insurance, credit scoring model validation and lender self-testing for compliance with SBA Loan Program Requirements. SBA Supervised Lender safety and soundness examinations include review of capital, earnings, and liquidity in accordance with 13 CFR 120.1050(b) and accordingly, SBA requests information on the lender's financing, asset account calculations, and dividend policy. Further detail on the information that SBA requests for SBA Supervised Lender examinations is contained in SBA Supervised Lender Safety and Soundness Examination/Full Review Information Request. This document is available upon request.

C. CDC Supplemental Information

SBA is also the primary federal regulator for CDCs. SBA guarantees 100% of 504 program debentures. Therefore, SBA also requests additional information to prudently oversee CDCs, as it does for SBA Supervised Lenders. The additional information generally requested includes corporate governance documents and information on lender's financial condition, internal controls and risk mitigation practices, and the CDC's plan for investment in other local economic development. In addition, SBA requests, as applicable, information on a CDC's Premier Certified Lenders Program (PCLP) Loan Loss Reserve Account and loans that a CDC packages for other 7(a) lenders. You may request a copy of the CDC SMART Analytical Review Information Request and CDC SMART Full Review Information Request for more details on this supplemental information request.

I. 7(a) Lender and CDC Delegated Authority Reviews

SBA collects information for Delegated Authority Reviews performed, in general, every two years for lenders applying or reapplying to SBA's Delegated Authority Programs (*e.g.,* Preferred Lender Program for 7(a) Lenders and Accredited Lender Program or PCLP for CDCs).[8] If a lender is scheduled to receive an Analytical or Full Review or a Safety and Soundness Examination during the same review cycle as a Delegated Authority Review, generally SBA will coordinate the timing of the reviews and the related information collections to lessen the burden.

For 7(a) delegated authority reviews, SBA requests information on organizational changes, staff training and experience, lender explanation for risk indicators triggered, lender risk mitigation efforts, lender's financial condition, lender's deficiencies underlying regulatory orders (if applicable and as appropriate), and loan sample files (as requested).

For CDC delegated authority reviews, SBA requests corporate governance documents and additional information on organization/staff, financial condition, internal controls and risk mitigation. SBA also requests a CDC's policies including its no-adverse-change determination, loan reviews, and lender explanation for its higher risk metrics.

For more detail on Delegated Authority Review collections, you may request a copy of the 7(a) Lender Nomination for Delegated Authority Information Request; and, the ALP/PCLP Renewal Guide and Information Request.

II. Microloan Intermediary Reviews

For Microloan Program Intermediary oversight, SBA District Offices perform an annual site visit for active Intermediaries. SBA requests information on SBA program management and operations including organizational chart with responsibilities, business plan, staff training on SBA lending, and risk mitigation practices. SBA primarily reviews the Intermediary's credit administration through a loan sample file request. Specifics on the information collected are contained in SBA's Microloan Intermediary Site Visit/Review Information Request document, a copy of which is available upon request.

III. Other Reviews, Corrective Action Plans, and Increased Supervision for 7(a) Lenders, CDCs, and Intermediaries

SBA may pose additional information requests for its Other Reviews,[9] generally of higher risk lenders. For example, for 7(a) lenders under a public regulatory order or agreement, SBA may request information relating to the status of the underlying deficiencies, as appropriate, or request loan files for SBA to review to mitigate risk before the loan can be sold into the secondary market. SBA may also request corrective action plans from lenders following reviews where findings and deficiencies are identified. Finally, SBA may request additional information of lenders under increased supervision. However, information requests for increased supervision tend to be lender specific.

In general, for information that has already been provided by a 7(a) lender, a CDC, or a Microloan Intermediary but is unchanged, a lender may certify that the information was already provided and is unchanged in lieu of resubmitting the information. The certification must also state to whom and on what date the information was provided to SBA.

Summary of Information Collection:

Title: SBA Lender and Microloan Intermediary Reporting Requirements.

OMB Control Number: 3245–0365.

Description of Respondents: SBA 7(A) Lenders, Certified Development Companies, and Microloan Intermediary lenders.

Form Numbers: N/A.

Total Estimated Annual Responses: 1,861.

Total Estimated Annual Hour Burden: 14,573.

Solicitation of Public Comments: SBA requests comments on the information described above, specifically on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–13956 Filed 6–28–18; 8:45 am]

BILLING CODE 8025–01–P

[8] Through SBA's Delegated Authority programs, qualified lenders may process SBA loans with further autonomy and reduced paperwork than through regular SBA loan processing.

[9] Other Reviews may include, for example, Secondary Market loan reviews, reviews of lender self-assessments, or Agreed Upon Procedures Reviews performed by third-party practitioners or an independent office within the Lender to which SBA and the Lender agree, that follow a review protocol as prescribed or approved by SBA.

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Minor Modifications

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the minor modifications approved for a previously

approved project by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: April 1–30, 2018.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists previously approved projects, receiving approval of minor modifications, described below, pursuant to 18 CFR 806.18 for the time period specified above:

Minor Modifications Issued Under 18 CFR 806.18

1. Pro-Environmental, LLC, Docket No. 20140610–1, Lathrop Township, Susquehanna County, Pa.; approval to changes in the authorized water uses; Approval Date: April 27, 2018.

2. Ski Roundtop Operating Corp., Docket No. 20031209–1, Warrington Township, York County, Pa.; approval to changes in the authorized water uses; Approval Date: April 27, 2018.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: June 26, 2018.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2018–14054 Filed 6–28–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2018–52]

Petition for Exemption; Summary of Petition Received; Gulfstream Aerospace Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 13, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0592 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Michael Harrison, AIR–673, Federal Aviation Administration, 2200 S. 216th Street, Des Moines, WA 98198, phone 206–231–3368, email *michael.harrison@faa.gov;* or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, phone 202–267–4713, email *Alphonso.Pendergrass@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Des Moines, Washington, on June 25, 2018.

Victor Wicklund,

Transport Standards Branch.

Petition For Exemption

Docket No.: FAA–2018–0592.

Petitioner: Gulfstream Aerospace Corporation.

Section(s) of 14 CFR Affected: § 25.1191(b)(1).

Description of Relief Sought: The Petitioner is seeking partial relief from the requirements of 14 CFR 25.1191(b)(1) at amendment 25–0 for a period of 2 years in order to conduct further testing of the engine inlet and thrust reverser flange fastener cap sealant on the Model GVII–G500/–G600 airplanes.

[FR Doc. 2018–13954 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2018–54]

Petition for Exemption; Summary of Petition Received; Victor Lee & Associates Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0183 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 22, 2018.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0183.

Petitioner: Victor Lee & Associates Inc.

Section(s) of 14 CFR Affected: Part 21; §§ 45.23(b); 61.113(a) and (b); 91.7(a); 91.9(b)(2); 91.103; 91.105; 91.109; 91.119; 91.121; 91.151(a); 91.203(a) and (b); 91.405(a); 91.407(a)(1); 91.409(a)(2); and 91.417(a) and (b).

Description of Relief Sought: The petitioner is requesting relief in order to operate the Shotover U–1 unmanned aircraft system, weighing approximately 89 pounds, for the purpose of conducting aerial photography and videography operations. The proposed operation will occur: During the day time; within visual line of sight of the pilot-in-command, at or below 400 feet above ground level; with geo fencing; and on private property in the United States of America.

[FR Doc. 2018–13972 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–33]

Petition for Exemption; Summary of Petition Received; Pan Am International Flight Academy

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0307 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Steven Barksdale (202) 267–7977, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 22, 2018.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0307.

Petitioner: Pan Am International Flight Academy.

Sections of 14 CFR Affected: §60.4 and 60.15.

Description of Relief Sought: The petitioner seeks relief from §§ 60.4 and 60.15 in order to qualify and use a B–707–338C simulator in accordance with International Civil Aviation Organization Doc. 9625 (edition 1) in lieu of the current flight simulation training device qualification standards in 14 CFR part 60, Appendix A.

[FR Doc. 2018–13971 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–37]

Petition for Exemption; Summary of Petition Received; Avitas Systems, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0263 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow

the online instructions for sending your comments electronically.

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

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

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 22, 2018.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0263.

Petitioner: Avitas Systems, Inc.

Section(s) of 14 CFR Affected: Part 21; §§ 36; 45.23(b); 61.113(a) & (b); 91.7(a); 91.9(b)(2); 91.103; 91.105(a)(2)(b); 91.107; 91.109; 91.119; 91.151(a); 91.203(a) & (b); 91.205; 91.405(a); 91.407(a)(1); 91.409(a)(2); 91.417(a) & (b).

Description of Relief Sought: The petitioner, a subsidiary of General Electric Company, is seeking an exemption pursuant to Section 2210 of the FAA Extension, Safety, and Security Act of 2016, to commercially operate unmanned aircraft systems, including the greater than 55 pounds Pulse Aero VAPOR 55 rotorcraft, over private property and beyond visual line of sight for aerial monitoring of oil and gas facilities in a specific rural location in support of activities described in Section 2210, paragraph (b). The inspection of oil and gas facilities will occur during day.

[FR Doc. 2018–13988 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–39]

Petition for Exemption; Summary of Petition Received; John E. Green

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0240 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

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

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

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 22, 2018.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0240.

Petitioner: John E. Green.

Section(s) of 14 CFR Affected: § 107.12.

Description of Relief Sought: The petitioner, a licensed and insured real estate agent, photographer and private pilot, is seeking an exemption from the licensing requirements of part 107 for the operation of unmanned aircraft systems for aerial photographs of homes and land for real estate advertising purposes in the United States.

[FR Doc. 2018–13987 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–101A]

Petition for Exemption; Summary of Petition Received; FlightScan Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice; reopening of comment period.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 13, 2018.

ADDRESSES: Send comments identified by docket number FAA–2017–1065 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to 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: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION: On April 12, 2018, the FAA published a notice in the **Federal Register** seeking comment regarding the petition for exemption submitted by FlightScan Corporation, (83 FR 15892). On May 3, 2018, the petitioner posted to the docket a revised petition that is available to the public and not marked proprietary and confidential. The FAA is reopening the comment period for this revised petition for exemption to provide adequate opportunity for comment.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 22, 2018.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–1065.
Petitioner: FlightScan Corporation.
Section(s) of 14 CFR Affected: §§ 45.23(b); 45.29(b)(3); 91.9(b); 91.105(a)(2), (b); 91.107; 91.109; 91.113(b); 91.119; 91.121; 91.203; 91.205(b)(13), (14), (15) & (17); 91.207.
Description of Relief Sought: The petitioner is requesting relief in order to operate the Schiebel CAMCOPTER S–100, a medium risk (ICAO Risk Class III) vertical takeoff and landing (VTOL) Unmanned Aircraft System (UAS), with a maximum takeoff weight of 440 pounds. The requested operation would allow the petitioner to provide commercial aerial monitoring during the day of critical national infrastructure beyond the visual line of sight (BVLOS) in the United States, as stipulated in section 2210 of the FAA Extension, Safety, and Security Act of 2016.

[FR Doc. 2018–13973 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee (MCSAC); Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of advisory committee meeting.

SUMMARY: FMCSA announces that its MCSAC will meet on Monday and Tuesday, July 30–31, 2018.

DATES: The meeting will be held Monday–Tuesday, July 30–31, 2018, from 9:15 a.m. to 4:30 p.m., Eastern Daylight Time (EDT).

ADDRESSES: This meeting will be held at the U.S. Department of Transportation, Oklahoma City Rooms A, B, and C, 1200 New Jersey Avenue SE, Washington, DC 20590. Copies of the MCSAC Task Statements and an agenda for the entire meeting will be made available in advance of the meeting at *https://www.fmcsa.dot.gov/mcsac.*

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, at (202) 385–2395, or via email at *mcsac@dot.gov.*

Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Watson by Wednesday, July 18, 2018.

SUPPLEMENTARY INFORMATION:

I. Background

Purpose of the Committee

MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations. MCSAC is composed of up to 20 voting representatives from safety advocacy, safety enforcement, labor, and industry stakeholders of motor carrier safety. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. The Committee operates as a discretionary committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. See FMCSA's MCSAC website for additional information about the committee's activities at *https://www.fmcsa.dot.gov/mcsac.*

Meeting Agenda

The MCSAC will complete its deliberations from June 2017 and provide recommendations to the Agency concerning automated driving systems (ADS)-equipped commercial motor vehicles (CMVs), the development of the Agency's fiscal year (FY) 2018–2022 strategic plan, and the review of the Federal Motor Carrier Safety Regulations (FMCSRs) to identify potential opportunities to reduce regulatory burdens while ensuring that Federal safety programs continue to achieve safety outcomes.

Task 17–1: Automated Driving Systems Equipped CMVs

On September 12, 2017, the Department published the *Automated Driving Systems (ADS): A Vision for Safety 2.0.* (Publication No. DOT HS 812–442, *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0_090617_v9a_tag.pdf*) (the Voluntary Guidance). On March 1, 2018, the Secretary convened an Automated Vehicle summit, which included a Public Listening Summit on Automated Vehicles Policy to seek input on Automated Vehicles 3.0 (*https://www.transportation.gov/AV/avsummit*). Automated driving systems (ADS) equipped CMVs are those in which the vehicle can take full control of the

driving tasks in at least some circumstances. ADS hold enormous potential benefits for safety, mobility, and the efficiency of our transportation system.

The Voluntary Guidance adopts the SAE International (SAE) published Standard J3016, ''Taxonomy and Definitions for Terms Related to On-Road Motor Vehicle Automated Driving Systems'' definitions for levels of automation. The SAE definitions divide vehicles into levels based on ''who does what, when.'' Generally:

- *SAE Level 0, No Driving Automation;* the driver performs all driving tasks.
- *SAE Level 1, Driver Assistance;* the vehicle is controlled by the driver but some driving assist features may be included in the vehicle design. *SAE Level 2, Partial Driving Automation;* the vehicle has combined automated functions, like acceleration and steering, but the driver must remain engaged with the driving task and monitor the environment at all times.
- *SAE Level 3, Conditional Driving Automation;* the driver is a necessity but is not required to monitor the environment. The driver must be ready to take control of the vehicle at all times with notice. *SAE Level 4, High Driving Automation;* the vehicle can perform all driving functions under certain conditions. The driver may have the option to control the vehicle. *SAE Level 5, Full Driving Automation;* the vehicle can perform all driving functions under all conditions.

Using the SAE levels described above, the Department draws a distinction between Levels 0–2 and 3–5 based on whether the human driver or the automated system is primarily responsible for monitoring the driving environment. The term ''automated vehicle systems'' represents SAE Levels 3–5 vehicles that are responsible for monitoring the driving environment. For this task, the Agency's primary focus is SAE Levels 3–5 ADS, as delineated in its **Federal Register** notice of March 26, 2018, *Request for Comments Concerning FMCSRs Which May Be a Barrier to the Safe Testing and Deployment of ADS-Equipped CMVs on Public Roads (https://federalregister.gov/d/2018-05788).* The comment period closed on May 10, 2018.

Public discussions regarding ADS have become more prominent in recent months as developers continue efforts to demonstrate and test the viability of advanced driver assistance systems on large commercial vehicles. FMCSA encourages the development of these advanced safety technologies for use on commercial vehicles, while recognizing the need to work with the States to ensure that, from an operations standpoint, all testing and use of these advanced safety systems is conducted in a manner that ensures the safe operation of ADS-equipped CMVs.

FMCSA tasked the MCSAC in June 2017 with providing recommendations regarding the framework for considering temporary exemptions that entities may seek to operate an ADS-equipped CMV on a public roadway.

Task 17–2: FY 2018–2022 Strategic Plan

FMCSA is drafting a new strategic plan for release in 2018. The new strategic plan will provide a high-level overview of our mission, vision, strategic goals and outlook for FY2018–2022 based on Department's goals for the next several years. The Department released its Strategic Plan for FY 2018–2022 in February 2018 (*https://www.transportation.gov/dot-strategic-plan*). The MCSAC has been tasked with providing feedback on the current FMCSA strategic goals and objectives and recommendations for additional goals, objectives, programs, and initiatives that the members believe should be highlighted in the next strategic plan to align with DOT's plan.

Task 17–3: Regulatory Review

In June 2017, FMCSA tasked the MCSAC with providing recommendations to the Agency concerning implementation of Executive Orders 13771, ''Reducing Regulation and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017) and 13777, ''Enforcing the Regulatory Reform Agenda'' (82 FR 12285, March 1, 2017). The Agency requests that the MCSAC identify regulations that it believes to be (1) outdated, unnecessary, or ineffective or (2) impose costs that exceed benefits. The MCSAC's recommendations would be based on the members' understanding of the regulatory requirements, how the rules have been implemented by the industry and enforcement officials, and crash, injury, and fatality data. FMCSA will provide technical assistance to the MCSAC members, as needed.

II. Meeting Participation

The meeting will be open to the public for its entirety. Oral comments from the public will be heard throughout the meeting, at the discretion of the MCSAC chairman and designated federal officer. Members of the public may submit written comments on the topics to be considered during the meeting by Wednesday, July 18, 2018, to Federal Docket Management System (FDMC) Docket Number FMCSA–2006–26367 using any of the following methods:

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

Issued on: June 21, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–14029 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0104]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BELLA LUNA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 30, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0104. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents

entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BELLA LUNA is:

—INTENDED COMMERCIAL USE OF VESSEL: ''Passenger Charter; Pleasure Cruise ''

—GEOGRAPHIC REGION: ''Illinois''

The complete application is given in DOT docket MARAD–2018–0104 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov*, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: June 26, 2018.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–14064 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0106]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PRELUDE; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 30, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0106. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PRELUDE is:

—INTENDED COMMERCIAL USE OF VESSEL: ''Charter vessel for teaching catamaran sailing instructors''

—GEOGRAPHIC REGION: ''Maryland, Delaware, Virginia, Rhode Island, North Carolina, South Carolina, Georgia, Florida''

The complete application is given in DOT docket MARAD–2018–0106 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: June 26, 2018.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–14066 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0105]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MELISSA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 30, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0105. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MELISSA is:

—INTENDED COMMERCIAL USE OF VESSEL: ''coast wise sightseeing, whale watching, sailing lessons''

—GEOGRAPHIC REGION: ''Hawaii, California''

The complete application is given in DOT docket MARAD–2018–0105 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

* * * * *

Dated: June 26, 2018.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–14065 Filed 6–28–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Request for Information Regarding Health Care Access Standards

AGENCY: Department of Veterans Affairs.

ACTION: Request for information.

SUMMARY: The Department of Veterans Affairs (VA) is requesting information to assist in implementing section 1703B of title 38, United States Code (U.S.C.), as added by section 104(a) of the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 (the VA MISSION Act) which directs VA to establish access standards for furnishing hospital care, medical services, and extended care services to covered veterans for purposes of the Veterans Community Care Program. In establishing these access standards, VA is required to consult with all pertinent Federal, private sector, and non-governmental entities. VA requests information from the public regarding the development of these access standards, including but not limited to information with regard to health plans on the use of access standards for the design of health plan provider networks, referrals from network providers to out-of-network providers, the appeals process for exemptions from benefit limits to out-of-network providers, and the measurement of performance against federal or state regulatory standards. With regard to health systems, VA requests information from the public including but not limited to the existence of standards for appointment wait times, the use of travel distance for establishing service areas, the development or use of guidelines to refer patients to out of system providers, and the measurement of performance against federal or state regulatory standards. Responses to this notice will support industry research and VA's evaluation of access standards.

DATES: July 30, 2018.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1063B, Washington, DC 20420; or by fax to 202–273–9026. Comments should indicate that they are submitted in response to ''Notice of Request for Information Regarding Health Care Access Standards''. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. During the comment period, comments may also be viewed online through the Federal Docket Management System at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Christina Hosenfeld, Management

Analyst, Office of the Deputy Under Secretary for Health for Community Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4112. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, Public Law 115–182, (the VA MISSION Act) creates a new 38 U.S.C. 1703B that contains requirements for VA to facilitate the establishment and use of access standards. Section 1703B(c) specifically requires VA to consult with all pertinent Federal entities, entities in the private sector, and other nongovernmental entities in establishing access standards. This notice and request for information serves as one of the means for VA to consult with these groups and entities. We note that VA will also hold a public hearing on Friday, July 13, 2018, to provide these groups and entities an opportunity to provide additional information. VA will use the comments it receives to help determine the access standards in compliance with the VA MISSION Act. VA will then submit a report, no later than March 3, 2019, as required by section 1703B(d)(1), detailing the access standards to the appropriate committees of Congress. The access standards will ultimately be published in the **Federal Register** and will be made available on a VA internet website.

In order to submit a report to Congress detailing the access standards by March 3, 2019, VA must expedite this consultation, which will be foundational to the process of determining the access standards. Hence, this notice and request for information has a comment period of 30 days. VA believes that 30 days is sufficient to provide comments, as the groups and entities with expertise in access standards will likely have the information readily available or can quickly compile and submit such information.

This notice is a request for information only. Commenters are encouraged to provide complete but concise responses to the questions outlined below. VA may choose to contact individual commenters, and such communications would serve to further clarify their written comments.

Request for Information: VA requests information that will assist in developing the access standards required by the VA MISSION Act. This includes information regarding the development of these access standards, including but not limited to information, with regard to health plans, on the use of access standards for the design of health plan provider networks, referrals from network providers to out-of-network providers, the appeals process for exemptions from benefit limits to out-of-network providers, and with respect to health systems, the existence of standards for appointment wait times, the use of travel distance for establishing service areas, the development or use of guidelines to refer patients to out of system providers, and the measurement of performance against regulatory standards.

Specifically, VA requests information from health plans and systems related to the below:

1. Do health plans use internal access standards for the design of provider networks and the application of in network/out of network benefits that are more stringent than regulatory standards (time or distance of travel, appointment wait times, provider/member ratios)? If so, what are these internal standards? How does the health plan measure performance against regulatory and internal access standards? How does the health plan respond to findings when access standards are not being met? Are current regulatory access standards cost-effective while maintaining quality standards? Do health plans have a process to handle routine requests from members or referring providers for exemptions to benefit limits when members seek out of network care or a lower tier provider?

2. Do health plans allow for appeals by providers or members to request exemptions from benefit limits related to out of network care or care by a lower tier provider? Is external review allowed for such appeals?

3. What are health plan practices regarding internal, regulatory, and/or accreditation standards for appointment wait times, including variance by specialty or type of service? How does the health plan use travel distance or time and/or provider-to-population ratios in deciding which geographic areas to consider as primary or secondary service areas?

4. Are clinicians within the health system given guidelines or rules on when to refer patients to out of system providers? For example, are clinicians encouraged to refer out of system if in-system wait times are longer than standard, travel time or distance to an in-system provider is too long, the patient's ability to travel is compromised or the frequency of treatment makes travel to an in-network provider difficult?

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Acting Chief of Staff, Department of Veterans Affairs, approved this document on June 25, 2018, for publication.

Dated: June 25, 2018.

Jeffrey M. Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–13952 Filed 6–28–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Announcement for Public Meeting Regarding Health Care Access Standards

AGENCY: Department of Veterans Affairs.

ACTION: Announcement of public meeting.

SUMMARY: The Department of Veterans Affairs (VA) is holding a public meeting to seek information from pertinent entities relating to implementation of 1703B of title 38, United States Code, as added by section 104(a) of the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 (the VA MISSION Act) which directs VA to establish access standards for furnishing hospital care, medical services, and extended care services to covered veterans for purposes of the Veterans Community Care Program. In establishing these access standards, VA is required to consult with all pertinent Federal, private sector, and non-governmental entities. VA requests information from the public regarding the development of these access standards, including but not limited to information on the use of access standards for the design of health plan provider networks, referrals from network providers to out-of-network providers, the appeals process for exemptions from benefit limits to out-of-network providers, the existence of standards for appointment wait times, the use of travel distance for establishing service areas, the development or use of guidelines to

refer patients to out of network providers, and the measurement of performance against federal and state regulatory standards. Responses to this notice will support industry research and VA's development of access standards.

DATES: VA will hold the public meeting on July 13, 2018, in Arlington, VA. The meeting will start at 9:00 a.m. and conclude on or before 5:00 p.m. Check-in will begin at 8:00 a.m.

ADDRESSES: The meeting will be held at the VHA National Conference Center at 2011 Crystal Drive, Arlington, VA 22202. This facility is accessible to individuals with disabilities.

* In-person attendance will be limited to 50 individuals. Advanced registration for individuals and groups is strongly encouraged (see registration instructions below). For listening purposes only (phone lines will be muted), the meeting will be available via audio which can be accessed by dialing 1–800–767–1750 access code 21398.

Please submit all written comments no later than Monday, July 30, by any of the following methods:

• *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail, Hand Delivery, Courier:* Postmarked no later than July 30, 2018, to: Director of Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420.

Note: Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal Holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment.

• *Fax:* (202) 273–9026, ATTENTION: Director of Regulations Management (00REG). All submissions must include the agency name and docket number. Note that all comments received will be posted and can be viewed online through the Federal Docket Management System at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Christina Hosenfeld, Management Analyst, Office of the Deputy Under Secretary for Health for Community Care, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–4112. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, Public Law 115–182, (the VA MISSION Act) created a new 1703B in title 38, United States Code (U.S.C.), that contains requirements for VA to facilitate the establishment and use of access standards. Section 1703B(c) specifically requires VA to consult with all pertinent Federal entities, entities in the private sector, and other nongovernmental entities in establishing access standards. This public meeting serves as one of the means for VA to consult with these groups and entities. We note that VA has published a request for information in the **Federal Register** in order to provide these groups and entities an opportunity to provide additional information. The request for information mentioned above can be found in *www.regulations.gov* under the title of ''Notice of Request for Information Regarding Health Care Access Standards.'' Comments should indicate that they are submitted in response to ''Notice of Request for Information Regarding Health Care Access Standards.'' VA will use the statements and testimonials presented at the public hearing to help determine the access standards in compliance with the VA MISSION Act. VA will then submit a report, no later than March 3, 2019, as required by section 1703B(d)(1), detailing the access standards to the appropriate committees of Congress. The access standards will ultimately be published in the **Federal Register** and will be made available on a VA internet website.

In order to submit a report to Congress detailing the access standards by March 3, 2019, VA must expedite this consultation, which will be foundational to the process of determining the access standards.

Registration: In-person attendance and participation in this meeting is limited to 50 individuals. VA has the right to refuse registration for in-person attendance once the maximum capacity of 50 individuals has been reached. Individuals interested in attending in-person should request registration by emailing Krinessa Pinkett at *krinessa.pinkett@va.gov.* A confirmation message will be provided within 1–2 business days after a request has been received, and individuals will be notified via email by July 9, 2017, confirming their attendance in-person. Attendees wanting to offer oral comments, testimonies, and/or technical remarks should indicate their intentions upon registration.

Individual registration: VA encourages individual registrations for those not affiliated with or representing a group, association, or organization.

Group registration: Identification of the name of the group, association, or organization should be indicated in your registration request. Due to the meeting location's maximum capacity, VA may limit the size of a group's registration to allow receipt of comments, testimonies, and/or technical remarks from a broad, diverse group of stakeholders. Oral comments, testimonies, and/or technical remarks may be limited from a group, association or organization with more than two (2) individuals representing the same group, association, or organization. Efforts will be made to accommodate all attendees who wish to attend in-person. However, VA will give priority for in-person attendance to pertinent Federal, private sector, and non-governmental entities who request registration before July 5, 4:00 p.m. ET, and wish to provide oral comments, testimonies, and/or technical remarks. Please provide the number and names of people your organization would like to send in-person, and VA will accommodate as space allows; organizations should list names in the order of importance of their attendance to ensure that VA allows admission for the right representatives. The length of time allotted for attendees to provide oral comments, testimonies and/or technical remarks during the meeting may be subject to the number of in-person attendees, and to ensure ample time is allotted to those registered attendees. There will be no opportunity for audio-visual presentations during the meeting. Written comments will be accepted by those attending in-person (see above instructions for submitting written comments).

Audio (for listening purposes only): Limited to the first 200 participants, on a first come, first served basis. Advanced registration is not required. Audio attendees will not be allowed to offer oral comments, testimonies, and/or technical remarks as the phone line will be muted. Written comments will be accepted from those participating via audio (see above instructions for submitting written comments).

Note: VA will conduct the public meeting informally, and technical rules of evidence will not apply. VA will arrange for a written transcript of the meeting and keep the official record open for 15 days after the meeting to allow submission of supplemental information. You may make arrangements for copies of the transcript directly with the reporter, and the transcript will also be posted in the docket of the rule as part of the official

record when the rule is published. Should it be necessary to cancel the meeting due to inclement weather or other emergencies, VA will take available measures to notify registered participants.

Agenda

08:00–09:00 Arrival/Check-In
09:00–12:00 Morning Public Meeting Session
12:00–13:00 Lunch Break (*Note:* Meals will not be provided by VA.)
13:00–17:00 Afternoon Public Meeting Session
17:00 Adjourn

Public Meeting Topics

Pursuant to section 1703B(c) of title 38, U.S.C., as added by section 104(a) of Public Law 115–182, (the VA MISSION Act), VA requests information that will assist in developing the access standards required by section 1703B(a)(1). This includes information regarding the development of these access standards, including but not limited to information on the use of access standards for the design of health plan provider networks, referrals from network providers to out-of-network providers, the appeals process for exemptions from benefit limits to out-of-network providers, the existence of standards for appointment wait times, the use of travel distance for establishing service areas, the development or use of guidelines to refer patients to out of system providers, and the measurement of performance against regulatory standards.

Specifically, VA requests information from health plans and systems related to the below:

1. Do health plans use internal access standards for the design of provider networks and the application of in network/out of network benefits that are more stringent than regulatory standards (time or distance of travel, appointment wait times, provider/member ratios)? If so, what are these internal standards? How does the health plan measure performance against regulatory and internal access standards? How does the health plan respond to findings when access standards are not being met? Are current regulatory access standards cost-effective while maintaining quality standards? Do health plans have a process to handle routine requests from members or referring providers for exemptions to benefit limits when members seek out of network care or a lower tier provider?

2. Do health plans allow for appeals by providers or members to request exemptions from benefit limits related to out of network care or care by a lower tier provider? Is external review allowed for such appeals?

3. What are health plan practices regarding internal, regulatory, and/or accreditation standards for appointment wait times, including variance by specialty or type of service? How does the health plan use travel distance or time and/or provider-to-population ratios in deciding which geographic areas to consider as primary or secondary service areas?

4. Are clinicians within the health system given guidelines or rules on when to refer patients to out of system providers? For example, are clinicians encouraged to refer out of system if in-system wait times are longer than standard, travel time or distance to an in-system provider is too long, the patient's ability to travel is compromised or the frequency of treatment makes travel to an in-network provider difficult?

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Acting Chief of Staff, Department of Veterans Affairs, approved this document on June 25, 2018, for publication.

Dated: June 25, 2018.

Jeffrey M. Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–13951 Filed 6–28–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA National Academic Affiliations Council, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the VA National Academic Affiliations Council (NAAC) will meet via conference call on July 11, 2018, from 10:00 a.m. to 12:00 p.m. EST. The meeting is open to the public.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On July 11, 2018, the Council will explore the current modernization effort within the Veterans Health Administration (VHA); receive a briefing on the VHA electronic health record modernization program; discuss provisions of the recently enacted Public Law 115–182 that impacts VA's clinical education mission; and receive updates on the waiver process for VA employees engaging in teaching activities with for-profit educational institutions; the activities of the Council's Subcommittee on Diversity and Inclusion; the June 13, 2018 Roundtable of Graduate Medical Education hosted by the House Committee on Veterans' Affairs; and the recent efforts of the VA Strategic Academic Advisory Council. The Council will receive public comments from 11:50 p.m. to 12:00 p.m. EST.

Interested persons may attend and/or present oral statements to the Council. The dial in number to attend the conference call is: 1–800–767–1750. At the prompt, enter access code 66983 then press #. Individuals seeking to present oral statements are invited to submit a 1–2 page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at any time, by email to *Steve.Trynosky@va.gov,* or by mail to Stephen K. Trynosky J.D., M.P.H., M.M.A.S., Designated Federal Officer, Office of Academic Affiliations (10A2D), 810 Vermont Avenue NW, Washington, DC 20420. Any member of the public wishing to participate or seeking additional information should contact Mr. Trynosky via email or by phone at (202) 461–6723.

Dated: June 26, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–14002 Filed 6–28–18; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 83 Friday,
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Part II

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 202, 208, 212, et al.
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 212, 214, 215, 216, 225, and 252

[Docket DARS–2018–0033]

RIN 0750–AJ93

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause ''Pricing Adjustments'' (DFARS Case 2018–D032)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a clause that is duplicative of an existing Federal Acquisition Regulation (FAR) clause rendering the DFARS clause unnecessary.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove the DFARS clause 252.215–7000, Pricing Adjustments, the clause prescription at DFARS 215.408, and the associated cross-references at DFARS 208.404, 212.301, 214.201, 216.506, 225.870, and introductory text for various 252.215 clauses to adjust clause prescription references.

The DFARS clause is included in solicitations and contracts that contain the FAR clause 52.215–11, Price Reduction for Defective Certified Cost or Pricing Data—Modifications, FAR 52.215–12, Subcontractor Certified Cost or Pricing Data, or FAR 52.215–13, Subcontractor Certified Cost or Pricing Data—Modifications. DFARS clause 252.215–7000 defines the term ''pricing adjustment'' as the aggregate increases and/or decreases in cost plus applicable profits. This term is adequately defined in the associated FAR clauses and this DFARS clause can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notification of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.215–7000, Pricing Adjustments, and determined that the DFARS coverage was redundant and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new solicitation provisions or contract clauses. This rule only removes obsolete DFARS clause 252.215–7010, Pricing Adjustments. Therefore, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

III. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

IV. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

V. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code. Specifically, 41 U.S.C 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule merely removes an obsolete clause from the DFARS.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section V. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 208, 212, 214, 215, 216, 225, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 208, 212, 214, 215, 216, 225, and 252 are amended as follows:

■ 1. The authority citation for parts 208, 212, 214, 215, 216, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

208.404 [Amended]

■ 2. Amend section 208.404, in paragraph (a)(iv), by removing ''215.408(3)'' and ''215.408(4)'' and adding ''215.371–6'' and ''215.408(3)'' in their place, respectively.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 3. Amend section 212.301 by—
■ a. In paragraph (f)(vi)(A), removing ''215.408(3)(i)'' and adding ''215.408(2)(i)'' in its place;
■ b. In paragraph (f)(vi)(B), removing ''215.408(3)(ii)'' and adding ''215.408(2)(ii)'' in its place;
■ c. In paragraph (f)(vi)(D), removing ''215.408(4)'' and adding ''215.408(3)'' in its place;
■ d. In paragraph (f)(vi)(E), removing ''215.408(6)(i)'' and adding ''215.408(5)(i)'' in its place;
■ e. In paragraph (f)(vi)(E)(*1*), removing ''215.408(6)(i)(A)'' and adding ''215.408(5)(i)(A)'' in its place; and
■ f. In paragraph (f)(vi)(E)(*2*), removing ''215.408(6)(i)(B)'' and adding ''215.408(5)(i)(B)'' in its place.

PART 214—SEALED BIDDING

214.201–6 [Amended]

■ 4. Amend section 214.201–6 by removing ''215.408(3) and (4)'' and adding ''215.371–6 and 215.408(3)'' in its place.

PART 215—CONTRACTING BY NEGOTIATION

215.408 [Amended]

■ 5. Amend section 215.408 by—
■ a. Removing paragraph (1);
■ b. Redesignating paragraphs (2) through (7) as paragraphs (1) through (6);
■ c. In newly redesignated paragraph (2)(i)(A)(*2*), removing ''paragraph (3)(i)(A)(*1*)'' and adding ''paragraph (2)(i)(A)(*1*) of this section'' in its place; and
■ d. In newly redesignated paragraphs (2)(ii)(A)(*2*) and (2)(ii)(A)(*3*)(*i*), removing ''paragraph (3)(ii)(A) (*1*)'' and adding ''paragraph (2)(ii)(A)(*1*) of this section'' in its place.

PART 216—TYPES OF CONTRACTS

216.506 [Amended]

■ 6. Amend section 216.506, in paragraph (S–70), by removing ''215.408(3) and (4)'' and adding ''215.371–6 and 215.408(3)'' in its place.

PART 225—FOREIGN ACQUISITION

225.870–4 [Amended]

■ 7. Amend section 225.870–4, in paragraph (c)(3), by removing ''215.408(3)(i) and (ii)'' and adding ''215.408(2)(i) and (ii)'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.215–7000 [Removed and Reserved]

■ 8. Remove and reserve 252.215–7000.

252.215–7002 [Amended]

■ 9. Amend section 252.215–7002, in the introductory text, by removing ''215.408(2)'' and adding ''215.408(1)'' in its place.

252.215–7003 [Amended]

■ 10. Amend section 252.215–7003, in the introductory text, by removing ''215.408(3)(i)'' and adding ''215.408(2)(i)'' in its place.

252.215–7004 [Amended]

■ 11. Amend section 252.215–7004, in the introductory text, by removing ''215.408(3)(ii)'' and adding ''215.408(2)(ii)'' in its place.

252.215–7008 [Amended]

■ 12. Amend section 252.215–7008, in the introductory text, by removing ''215.408(4)'' and adding ''215.408(3)'' in its place.

252.215–7009 [Amended]

■ 13. Amend section 252.215–7009 by, in the Basic clause introductory text, removing ''215.408(5)'' and adding ''215.408(4)'' in its place.

252.215–7010 [Amended]

■ 14. Amend section 252.215–7010 by—
■ a. In the Basic clause introductory text, removing ''215.408(6)(i) and (6)(i)(A)'' and adding ''215.408(5)(i) and (5)(i)(A)'' in its place; and
■ b. In the Alternate I clause introductory text, removing ''215.408(6)(i) and (6)(i)(B)'' and adding ''215.408(5)(i) and (5)(i)(B)'' in its place.

252.215–7011 [Amended]

■ 15. Amend section 252.215–7011, in the introductory text, by removing ''215.408(6)(ii)'' and adding ''215.408(5)(ii)'' in its place.

252.215–7012 [Amended]

■ 16. Amend section 252.215–7012, in the introductory text, by removing ''215.408(6)(iii)'' and adding ''215.408(5)(iii)'' in its place.

252.215–7013 [Amended]

■ 17. Amend section 252.215–7013, in the introductory text, by removing ''215.408(7)'' and adding ''215.408(6)'' in its place.

[FR Doc. 2018–14044 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 215, 225, and 252

[Docket–DARS–2015–0027]

RIN 0750–AI59

Defense Federal Acquisition Regulation Supplement: Offset Costs (DFARS Case 2015–D028)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 related to costs associated with indirect offsets under foreign military sales (FMS) agreements and expand on the prior interim rule guidance related to FMS offset costs.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** (80 FR 31309) on June 2, 2015, to amend the DFARS to state that all offset costs that involve benefits provided by the U.S. defense contractor to the FMS customer that are unrelated to the item being purchased under the Letter of Offer and Acceptance (LOA) (indirect offset costs) are deemed reasonable, with no further analysis necessary on the part of the contracting officer, provided that the U.S. defense contractor submits to the contracting officer a signed offset agreement or other documentation showing that the FMS customer has made the provision of an indirect offset of a certain dollar value a condition of the FMS acquisition.

To expand on the interim rule guidance and incorporate the requirements of section 812 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, DoD

published a subsequent proposed rule in the **Federal Register** (81 FR 78015) on November 4, 2016.

Section 812 of the NDAA for FY 2016 amended 10 U.S.C. 2306a(b)(1) to state that submission of certified cost or pricing data shall not be required in the case of a contract, a subcontract, or modification of a contract or subcontract to the extent such data—

(i) Relates to an offset agreement in connection with a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm; and

(ii) Does not relate to a contract or subcontract under the offset agreement for work performed in such foreign country or by such foreign firm that is directly related to the weapon system or defense-related item being purchased under the contract.

II. Discussion and Analysis

One respondent submitted public comments in response to the proposed rule. DoD reviewed the public comments in the development of this final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

In addition to the interim rule revisions to DFARS 225.7303–2, Cost of doing business with a foreign government or an international organization, this final rule includes the proposed rule amendments to revise 215.403–1(b), Exceptions to certified cost or pricing data requirements, and adds clause 252.215–7014, Exception from Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets.

In response to public comments, the definitions of ''direct offset'' and ''indirect offset'' have been revised, and the title of DFARS Clause 252.215–7014 has been revised.

B. Analysis of Public Comments

1. Definition of ''direct offsets''

Comment: The respondent stated that the definition of ''direct offsets'' in the proposed rule is too broad to satisfy the statutory requirements, and leaves room for ambiguity in determining whether an offset requirement is indirect or direct. In some cases, there may be indirect offset projects that are related to the item being purchased, but not part of the FMS procurement itself, such as a maintenance facility for the item that is being offered. The definition for direct offsets should be limited to manufacturing or services performed by a foreign supplier to fulfill the specific FMS contract deliverable. For example, the respondent explained that FMS customers are increasingly interested in maintaining their aircraft throughout the lifecycle and are requesting projects from U.S. aerospace companies that involve maintenance, repair, overhaul, and simulation capability. Related products and services that are needed to operate, maintain, and/or sustain the item, but are not part of the scope or directly procured under the LOA, including training and maintenance activities, are not direct offsets.

Moreover, although it is correct that direct offsets are ''generally . . . performed within a specific period,'' this is not necessarily a distinguishing characteristic for a direct offset, and may lead to confusion. The respondent, however, recommended adding the clarifying phrase ''integral to the deliverable of the FMS contract'' in the definition, because it reinforces that direct offsets are directly related to the system offered in the LOA.

Response: DoD concurs with the respondent's recommendation in part. The first sentence of the direct offset definition is revised to provide that a direct offset involves benefits or obligations, including supplies or services, that are directly related to the item being purchased and are integral to the deliverable of the FMS contract. However, the definition still states that, generally, direct offsets must be performed within a specific period, because they are integral to the deliverable of the FMS contract, to provide a bright line discriminator between direct and indirect offsets.

2. Definition of ''indirect offsets''

Comment: The respondent recommended revising the definition of ''indirect offsets'' to provide clarity for the contracting officers to identify indirect offsets and enable FMS customers to obtain the offset benefits they need without the additional cost and time of having the contractor propose and negotiate an offset program subject to Federal Acquisition Regulation (FAR) parts 15 and 31, thereby fulfilling the intention of section 812 of the NDAA for FY 2016. Foreign customers are increasingly looking for indirect offset projects that are not integral to the items being purchased in an LOA, but that may be related to the defense articles. Without revision to this definition, contracting officers could mistakenly view these indirect offset projects as direct offsets. In addition, offsets are not necessarily in fulfillment of an FMS contract. Since offsets are executed under a separate offset agreement, the offset customer is not always the same as the supply contract customer, and the offset authority may have different offset project priorities than the supply contract customer.

Response: DoD concurs with the respondent's recommendation and has revised the definition of indirect offsets.

3. Definition of ''offset costs''

Comment: The respondent recommended revising the definition of ''offset costs.'' Generally, offsets are implemented in accordance with a foreign purchaser's national offset requirements. These requirements can differ from country to country, and not all offset transactions may be deemed to be required. Offsets are frequently agreed to in a contractual commitment and are not addressed explicitly in the LOA. Accordingly, the definition of offset costs should be modified to address these circumstances.

Response: DoD disagrees with this recommendation. For offsets to be included in FMS contracts, they must be required (explicitly or implicitly) as a condition of foreign military sales.

4. Offset Agreements

Comment: The respondent recommended removing the word ''Agreements'' from the title for DFARS clause 252.215–7014. The distinction between direct and indirect offsets is typically made at the project level, not at the agreement level. An FMS customer may include requirements for both direct and indirect projects in a single offset agreement. A reference here to an Agreement is overbroad and is certain to cause confusion in the implementation.

Response: DoD concurs with the respondent's recommendation and has revised the title of DFARS clause 252.215–7014, accordingly.

5. Appropriate Documentation

Comment: The respondent believes that the administrative requirement for evidence to show that the FMS customer has ''made the provision of an indirect offset a condition of the FMS acquisition'' and that such evidence support the specific acquisition is unnecessary, onerous, and not responsive to statutory guidance provided in section 812 of the NDAA for FY 2016.

The respondent concurs with prior public comments to the interim rule which stated that, ''a country's offset guidelines may allow for both direct and indirect projects, but the defense contractor and foreign government might not decide on a specific mix of

direct versus indirect projects until after the LOA is signed. As such, this requirement could effectively negate much of the benefit of this rule.''

The respondent explained that in practice, an offset agreement may not specify an indirect offset requirement, but rather the overall offset obligation that can be fulfilled with both direct and indirect offset projects. Moreover, many offset agreements do not require offset obligation percentages or minimum direct/indirect offset requirements. A country's offset requirements may also flow down to items (products or services) that are affiliated with sales that are being supplied by, but not limited to, Government-furnished equipment, or lower tier defense contractors. In such cases, a contractor may have no ''evidence'' to provide of the requirement related to the specific acquisition other than the requirements outlined in the foreign law, regulation, policy, or other general guidance.

The intent of section 812 of the NDAA for FY 2016 was to eliminate the need for an unnecessary and time-consuming review of offsets that are negotiated directly between the contractor and foreign customer. A combination of the ''FMS customer's offset guidelines, requirements, regulations or law, policy or historical requirements'' should be a sufficient showing of evidence for an offset requirement.

The respondent recommended that contracting officers accept that the contractor has an indirect offset requirement, if so stated, since a contractor claiming an offset requirement where none exists would be subject to other laws and regulations governing such false claims.

Response: It is not an unreasonable requirement for contractors to provide the contracting officer a signed offset agreement or other documentation showing that the FMS customer has made the provision of an indirect offset a condition of the FMS acquisition as a condition for deeming indirect offset costs to be reasonable for purposes of FAR parts 15 and 31 with no further analysis necessary. Therefore, no revisions are necessary.

6. Administrative Costs

Comment: The respondent believed that administration costs should not be distinguishable from other indirect costs for the purposes of this rule. As stated, ''indirect offset costs are deemed reasonable for purposes of FAR parts 15 and 31 with no further analysis necessary on the part of the contracting officer. . . .'' Similarly, section 812 of the NDAA for FY 2016 makes no such distinction between indirect offset administration costs and other costs.

The respondent further stated that it is unclear what administration costs might be envisioned for further review. For example, travel and project execution costs might be deemed administrative costs. Since these costs would not be determined until the offset projects are defined, such costs might also not be determined until after the LOA is signed.

The respondent explained that the intent of the statutory and regulatory guidance related to indirect offset costs was to ensure that contracting officers did not have to conduct reasonableness analysis in these instances. Contracting officers should not have a greater requirement to parse out indirect administration costs for which they have no greater knowledge and expertise than the indirect offset costs in total.

The respondent suggested that the definitions for ''direct'' and ''indirect'' offsets should provide sufficient clarification for contracting officers to ensure that the final rule implements the statutory requirement that those costs not directly related to the system or item being purchased under the LOA are not subjected to certified pricing requirements.

Therefore, the respondent believed that it is not appropriate or necessary for a contracting officer to engage in cost reasonableness analysis for administration costs related to indirect offsets. The respondent recommended that the final rule should make clear that all indirect offset costs are deemed reasonable for the purposes of FAR parts 15 and 31 with no further analysis necessary on the part of the contracting officer, and that the rule applies to all indirect offset costs, including any administrative costs.

Response: The definitions for ''direct'' and ''indirect'' offsets provides sufficient clarification for contracting officers to ensure that those costs not directly related to the item being purchased or integral to the deliverable of the FMS contract are not subjected to certified pricing requirements. No further clarification is required.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule clarifies requirements related to costs associated with indirect offsets under Foreign Military Sales agreements. The revisions do not add any new burdens or impact applicability of clauses and provisions at or below the simplified acquisition threshold, or to commercial items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis has been performed and is summarized as follows:

The objective of this rule is to incorporate the requirements of section 812 of the National Defense Authorization Act of 2016 to provide clarification to contracting officers when indirect offsets are a condition of an FMS acquisition. This rule revises DFARS 225.7303–2, ''Cost of doing business with a foreign government or an international organization'' by adding paragraph (a)(3)(iii) to provide guidelines to contracting officers when an indirect offset is a condition of a Foreign Military Sales (FMS) acquisition. This rule specifically addresses indirect offsets as they are applied to the Defense Security Cooperation Agency's FMS cases. This rule is necessitated by the recent and foreseeable trend of increasing numbers and complexity of indirect offsets desired by DoD FMS customers.

DoD administers FMS programs with partner nations to maintain and strengthen relationships with nations that if not nurtured through these partnerships may threaten national security. The Department's FMS program allows foreign customers to request, and pay for, through inclusion of the cost in the FMS Letter of Offer and Acceptance (LOA) and DoD contract, offsets that are directly related

to the FMS end items (*i.e.,* ''direct offsets''), as well as offsets that are not directly related to the end item (*i.e.,* ''indirect offsets'').

DoD recognizes the need to have offsets embedded in DoD FMS contracts. However, the decision whether to engage in indirect offsets, and the responsibility for negotiating and implementing these offset arrangements, ultimately reside with the FMS customer and contractor(s) involved. Thus, the DoD contracting officer is not provided the information necessary to negotiate cost or price of the indirect offsets, particularly with respect to price reasonableness determinations pursuant to FAR part 15. This rule provides that under these circumstances, when the provision of an indirect offset is a condition of the FMS acquisition and provided that the U.S. defense contractor submits to the contracting officer an offset agreement or other substantiating documentation, those indirect offset costs are deemed reasonable for the purposes of FAR part 31.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

DoD does not expect this rule to have a significant impact on the small businesses that may be affected by this rule, because the DFARS amendments merely clarify that contracting officers are not responsible for making a determination of price reasonableness for indirect offset agreements for which they have no purview.

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

There is no change to reporting or recordkeeping as a result of this rule. The rule does not duplicate, overlap, or conflict with any other Federal rules, and there are no known significant alternative approaches to the rule that would meet the requirements.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 202, 215, 225, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 202, 215, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 202, 215, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

■ 2. In section 202.101, add, in alphabetical order, definitions of ''Offset'' and ''Offset costs'' to read as follows:

202.101 Definitions.

* * * * *

Offset means a benefit or obligation agreed to by a contractor and a foreign government or international organization as an inducement or condition to purchase supplies or services pursuant to a foreign military sale (FMS). There are two types of offsets: Direct offsets and indirect offsets.

(1) A direct offset involves benefits or obligations, including supplies or services that are directly related to the item(s) being purchased and are integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may require or agree to permit the customer to produce in its country certain components or subsystems of the item being sold. Generally, direct offsets must be performed within a specified period, because they are integral to the deliverable of the FMS contract.

(2) An indirect offset involves benefits or obligations, including supplies or services that are not directly related to the specific item(s) being purchased and are not integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may agree to purchase certain manufactured products, agricultural commodities, raw materials, or services, or make an equity investment or grant of equipment required by the FMS customer, or may agree to build a school, road or other facility. Indirect offsets would also include projects that are related to the FMS contract but not purchased under said contract (*e.g.,* a project to develop or advance a capability, technology transfer, or know-how in a foreign company). Indirect offsets may be accomplished without a clearly defined period of performance.

Offset costs means the costs to the contractor of providing any direct or indirect offsets required (explicitly or implicitly) as a condition of a foreign military sale.

* * * * *

PART 215—CONTRACTING BY NEGOTIATION

■ 3. In section 215.403–1, revise paragraph (b) to read as follows:

215.403–1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

(b) *Exceptions to certified cost or pricing data requirements.* (i) Follow the procedures at PGI 215.403–1(b).

(ii) Submission of certified cost or pricing data shall not be required in the case of a contract, subcontract, or modification of a contract or subcontract to the extent such data relates to an indirect offset.

* * * * *

■ 4. In section 215.408, add paragraph (7) to read as follows:

215.408 Solicitation provisions and contract clauses.

* * * * *

(7) Use the clause at 252.215–7014, Exception from Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets, in solicitations and contracts that contain the provision at FAR 52.215–20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, when it is reasonably certain that—

(i) The contract is expected to include costs associated with an indirect offset; and

(ii) The submission of certified cost or pricing data or data other than certified cost or pricing data will be required.

PART 225—FOREIGN ACQUISITION

■ 5. In section 225.7303–2, revise paragraph (a)(3) to read as follows:

225.7303–2 Cost of doing business with a foreign government or an international organization.

(a) * * *

(3) *Offsets.* For additional information see 225.7306.

(i) An offset agreement is the contractual arrangement between the FMS customer and the U.S. defense contractor that identifies the offset obligation imposed by the FMS customer that has been accepted by the U.S. defense contractor as a condition of the FMS customer's purchase. These

agreements are distinct and independent of the LOA and the FMS contract. Further information about offsets and LOAs may be found in the Defense Security Cooperation Agency (DSCA) Security Assistance Management Manual (DSCA 5105.38–M), chapter 6, paragraph 6.3.9. (*http://samm.dsca.mil/chapter/chapter-6*).

(ii) A U.S. defense contractor may recover all costs incurred for offset agreements with a foreign government or international organization if the LOA is financed wholly with foreign government or international organization customer cash or repayable foreign military finance credits.

(iii) The U.S. Government assumes no obligation to satisfy or administer the offset agreement or to bear any of the associated costs.

(iv) Indirect offset costs are deemed reasonable for purposes of FAR parts 15 and 31 with no further analysis necessary on the part of the contracting officer, provided that the U.S. defense contractor submits to the contracting officer a signed offset agreement or other documentation showing that the FMS customer has made the provision of an indirect offset a condition of the FMS acquisition. FMS customers are placed on notice through the LOA that indirect offset costs are deemed reasonable without any further analysis by the contracting officer.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Add section 252.215–7014 to read as follows:

252.215–7014 Exception from Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets.

As prescribed in 215.408(8), use the following clause:

Exception From Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets (JUN 2018)

(a) *Definition.* As used in this clause—

Offset means a benefit or obligation agreed to by a contractor and a foreign government or international organization as an inducement or condition to purchase supplies or services pursuant to a foreign military sale (FMS). There are two types of offsets: Direct offsets and indirect offsets.

(i) A direct offset involves benefits or obligations, including supplies or services that are directly related to the item being purchased and are integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may require or agree to permit the customer to produce in its country certain components or subsystems of the item being sold. Generally, direct offsets must be performed within a specified period, because they are integral to the deliverable of the FMS contract.

(ii) An indirect offset involves benefits or obligations, including supplies or services that are not directly related to the specific item(s) being purchased and are not integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may agree to purchase certain manufactured products, agricultural commodities, raw materials, or services, or make an equity investment or grant of equipment required by the FMS customer, or may agree to build a school, road or other facility. Indirect offsets would also include projects that are related to the FMS contract but not purchased under said contract (*e.g.,* a project to develop or advance a capability, technology transfer, or know-how in a foreign company). Indirect offsets may be accomplished without a clearly defined period of performance.

(b) *Exceptions from certified cost or pricing data requirements.* Notwithstanding the requirements of Federal Acquisition Regulation (FAR) 52.215–20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in the case of this contract or a subcontract, and FAR 52.215–21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications, in the case of modification of this contract or a subcontract, submission of certified cost or pricing data shall not be required to the extent such data relates to an indirect offset (10 U.S.C. 2306a(b)(1)).

(End of clause)

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