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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4280

RIN 0570–AA85

Guaranteed Loanmaking and Servicing Regulations; Corrections

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service; USDA.

ACTION: Correcting amendments.

SUMMARY: On June 3, 2016, the Rural Business-Cooperative Service promulgated changes to its Guaranteed Loanmaking and Servicing Regulations. Following final implementation of this final rule, RBS found that conforming amendments for adoption for the Rural Energy for America Program (REAP) had not been included. This technical correction makes amendments to allow REAP to continue to use procedures and forms from the revised Guaranteed program.

DATES: Effective July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Mark Brodziski, Rural Development, Energy Programs, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 3225, Washington, DC 20250–3201; email: *Mark.Brodziski@wdc.usda.gov;* telephone number: (202) 720–0410.

SUPPLEMENTARY INFORMATION:

Need for Corrections

The Agency published a final rule on June 3, 2016, (81 FR 35984) for the purpose of improving program delivery, clarifying the regulations to make them easier to understand, and reducing delinquencies. The Agency discovered that conforming amendments had not been included for 7 CFR part 4280 to continue to allow the Rural Energy for America Program to use procedures and forms already codified for the Guaranteed program and correctly reference revised 7 CFR part 4279. This notice makes technical corrections to include the actual language in 7 CFR part 4280 referencing language from 7 CFR part 4279 prior to amendment of such regulation in 2017, update references included in 7 CFR part 4280 to updated sections of 7 CFR part 4279, and update the title of Form RD 4280–2 from Grant Agreement to Financial Assistance Agreement, all as intended at the time of revision of 7 CFR part 4279. In addition, information on lender eligibility and credit quality is updated to bring them into conformance with the Guaranteed program and current implementation.

List of Subjects in 7 CFR Part 4280

Business and industry, Energy, Grant programs—Business, Loan programs—Business and industry, Rural areas.

Accordingly, 7 CFR chapter XLII is amended by making the following correcting amendments:

PART 4280—LOANS AND GRANTS

■ 1. The authority citation for part 4280 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 940c; and 7 U.S.C. 1932(c).

Subpart B—Rural Energy for America Program

§§ 4280.103, 4280.110, 4280.112, 4280.113, 4280.122, 4280.123, and 4280.196 [Amended]

■ 2. In §§ 4280.103, 4280.110, 4280.112, 4280.113, 4280.122, 4280.123, and 4280.196, remove the words ''Grant Agreement'' and add in their place the words ''Financial Assistance Agreement'' wherever they appear in the following places:
■ a. § 4280.103;
■ b. § 4280.110(i) introductory text, (i)(1), and (i)(2);
■ c. § 4280.112(b)(2);
■ d. § 4280.113(a)(4)(ii)(A) and (B);
■ e. § 4280.122(d), (e), (f), (g) and (h);
■ f. § 4280.123 introductory text and (d);
■ g. § 4280.196 introductory text.

■ 3. Amend § 4280.103 by:
■ a. Placing the newly designated definition *Financial Assistance Agreement (Form RD 4280–2, Rural Business Cooperative Service Financial Assistance Agreement, or successor form)* in alphabetical order.
■ b. Revising the definition of *State* to read as follows:

§ 4280.103 Definitions.

* * * * *

State. Any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

* * * * *

■ 4. Revise § 4280.125 to read as follows:

§ 4280.125 Compliance with §§ 4279.29 through 4279.99 of this chapter.

(a) *General.* Except for § 4279.29 of this chapter, all loans guaranteed under this subpart must comply with the provisions found in §§ 4279.30 through 4279.99 of this chapter.

(b) Instead of § 4279.29 of this chapter, the Eligible lenders provisions of this subpart are:

(1) Traditional lenders. An eligible lender is any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, or mortgage company that is part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions provided, they are subject to credit examination and supervision by either the National Credit Union Administration or a State agency, and insurance companies provided they are regulated by a State or National insurance regulatory agency. Eligible lenders include the National Rural Utilities Cooperative Finance Corporation.

(2) Other lenders. Rural Utilities Service borrowers and other lenders not meeting the criteria of paragraph (a) of this section may be considered by the Agency for eligibility to become a guaranteed lender provided, the Agency determines that they have the legal authority to operate a lending program and sufficient lending expertise and financial strength to operate a successful lending program.

(i) Such a lender must:

(A) Have a record of successfully making at least three commercial loans annually for at least the most recent 3 years, with delinquent loans not exceeding 10 percent of loans outstanding and historic losses not exceeding 10 percent of dollars loaned, or when the proposed lender can demonstrate that it has personnel with equivalent previous experience and where the commercial loan portfolio was of a similar quantity and quality; and

(B) Have tangible balance sheet equity of at least seven percent of tangible assets and sufficient funds available to disburse the guaranteed loans it proposes to approve within the first 6 months of being approved as a guaranteed lender.

(ii) A lender not eligible under paragraph (a) of this section that wishes consideration to become a guaranteed lender must submit a request in writing to the State Office for the State where the lender's lending and servicing activity takes place. The lender's written request must include:

(A) Evidence showing that the lender has the necessary capital and resources to successfully meet its responsibilities.

(B) Copy of any license, charter, or other evidence of authority to engage in the proposed loanmaking and servicing activities. If licensing by the State is not required, an attorney's opinion to this effect must be submitted.

(C) Information on lending experience, including length of time in the lending business; range and volume of lending and servicing activity; status of loan portfolio including delinquency rate, loss rate as a percentage of loan amounts, and other measures of success; experience of management and loan officers; audited financial statements not more than 1 year old; sources of funds for the proposed loans; office location and proposed lending area; and proposed rates and fees, including loan origination, loan preparation, and servicing fees. Such fees must not be greater than those charged by similarly located commercial lenders in the ordinary course of business.

(D) An estimate of the number and size of guaranteed loan applications the lender will develop.

(3) Expertise. Loan guarantees will only be approved for lenders with adequate experience and expertise to make, secure, service, and collect REAP loans.

■ 5. Revise § 4280.126 to read as follows:

§ 4280.126 Guarantee/annual renewal fee.

Except for the conditions for receiving reduced guarantee fee and unless otherwise specified in a **Federal Register** notice, the provisions specified in § 4279.120 of this chapter apply to loans guaranteed under this subpart.

■ 6. Amend § 4280.129 by revising paragraph (e)(3) to read as follows:

§ 4280.129 Guaranteed loan funding.

* * * * *

(e) * * *

(3) Routine lender fees, as described in § 4279.120 (c) of this chapter.

* * * * *

■ 7. Amend § 4280.130 by revising paragraph (b) to read as follows:

§ 4280.130 Loan processing.

* * * * *

(b) The provisions found in §§ 4279.125(d), 4279.150, 4279.166, 4279.161, and 4279.167(b) of this chapter do not apply to loans guaranteed under this subpart.

■ 8. Revise § 4280.131 to read as follows:

§ 4280.131 Credit quality.

The lender is primarily responsible for determining credit quality and must address all of the elements of credit quality in a written credit analysis including adequacy of equity, cash flow, collateral, history, management, and the current status of the industry for which credit is to be extended.

(a) *Cash flow.* All efforts will be made to structure or restructure debt so that the business has adequate debt coverage and the ability to accommodate expansion.

(b) *Collateral.* (1) Collateral must have documented value sufficient to protect the interest of the lender and the Agency and, except as set forth in paragraph (b)(2) of this section, the discounted collateral value will be at least equal to the loan amount. Lenders will discount collateral consistent with sound loan-to-value policy.

(2) Some businesses are predominantly cash-flow oriented, and where cash flow and profitability are strong, loan-to-value coverage may be discounted accordingly. A loan primarily based on cash flow must be supported by a successful and documented financial history.

(c) *Industry.* Current status of the industry will be considered and businesses in areas of decline will be required to provide strong business plans which outline how they differ from the current trends. The regulatory environment surrounding the particular business or industry will be considered.

(d) *Equity.* Borrowers must demonstrate evidence of a financial contribution in the project of not less than 25 percent of total Eligible Project Costs. Federal grant funds may be used as the financial contribution.

(e) *Lien priorities.* The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior position may be considered provided that discounted collateral values are adequate to secure the loan in accordance with paragraph (b) of this section after considering prior liens.

(f) *Management.* A thorough review of key management personnel will be completed to ensure that the business has adequately trained and experienced managers.

■ 9. Revise § 4280.134 to read as follows:

§ 4280.134 Personal and corporate guarantees.

Except for Passive Investors, all personal and corporate guarantees must be in accordance with § 4279.132 of this chapter.

■ 10. Amend § 4280.137 by revising paragraphs (b)(2)(viii)(C) and (c)(1), and the first sentence of paragraph (c)(2), to read as follows:

§ 4280.137 Application and documentation.

* * * * *

(b) * * *

(2) * * *

(viii) * * *

(C) *Pro forma financial statements.* Provide pro forma balance sheet at start-up of the borrower's business operation that reflects the use of the loan proceeds or grant award; 2 additional years of financial statements, indicating the necessary start-up capital, operating capital, and short-term credit; and projected cash flow and income statements for 3 years supported by a list of assumptions showing the basis for the projections.

* * * * *

(c) * * *

(1) *Application contents.* If the application is for a loan with total project costs in the amount of $80,000 or less, the application must contain the information specified in § 4280.119(b), except as specified in paragraph (c)(2) of this section (*e.g.,* the grant application SF–424 forms under § 4280.119(b) are not required to be submitted), and must present the information in the same order as shown in § 4280.119(b). If the application is for less than $200,000, but more than $80,000, the application must

contain the information specified in § 4280.118(b), except as specified in paragraph (c)(2) of this section (*e.g.,* the grant application SF–424 forms under § 4280.117(a) are not required to be submitted), and must present the information in the same order as shown in § 4280.118(b). If the application is for $200,000 and greater, the application must contain the information specified in § 4280.117, except as specified in paragraph (c)(2) of this section, (*e.g.,* the grant application SF–424 forms under § 4280.117(a) are not required to be submitted), and must present the information in the same order as shown in § 4280.117.

(2) *Lender forms, certifications, and agreements.* Each application submitted under paragraph (c) of this section must use Form RD 4279–1, ''Application for Loan Guarantee,'' and the forms and certifications specified in paragraphs (b)(2)(ii), (iii) (if not previously submitted), (v), (viii), (ix), (x), and (xi) of this section. * * *

■ 11. Amend § 4280.142 by revising the first sentence of the introductory text to read as follows:

§ 4280.142 Conditions precedent to issuance of loan note guarantee.

The provisions of § 4279.181 of this chapter apply except for § 4279.181(a)(9)(v). * * *

* * * * *

Dated: June 8, 2018.

Bette B. Brand,

Administrator, Rural Business-Cooperative Service.

Dated: June 14, 2018.

Kenneth L. Johnson,

Administrator, Rural Utilities Service.

[FR Doc. 2018–14170 Filed 6–29–18; 8:45 am]

BILLING CODE 3410–XY–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 615

[Docket No. 2018–12366]

RIN 3052–AC84

Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investment Eligibility; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA or our) is correcting a final rule that appeared in the **Federal Register** on June 12, 2019 that amends our regulations governing investments of both Farm Credit System (FCS) banks and associations. The final rule strengthens eligibility criteria for investments that FCS banks purchase and hold, and implements section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act by removing references to and requirements for credit ratings and substituting other appropriate standards of creditworthiness. The final rule revises FCA's regulatory approach to investments by FCS associations by limiting the type and amount of investments that an association may hold for risk management purposes.

DATES: This correction shall become effective on January 1, 2019.

FOR FURTHER INFORMATION CONTACT:

David J. Lewandrowski, Senior Policy Analyst, Office of Regulatory Policy, (703) 883–4212, TTY (703) 883–4056, *lewandrowskid@fca.gov;*

J.C. Floyd, Associate Director of Finance and Capital Market Team, Office of Regulatory Policy, (703) 883–4321, TTY (703) 883–4056, *floydjc@fca.gov;* or

Richard A. Katz, Senior Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, *katzr@fca.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2018–12366 appearing on page 27486 in the **Federal Register** of Tuesday, June 12, 2018, the following corrections are made:

§ 611.1153 [Corrected]

■ 1. On page 27499, in the first column, in part 611, amendatory instruction 2 is removed.

§ 611.1155 [Corrected]

■ 2. On page 27499, in the first column, in part 611, amendatory instruction 3 is removed.

§ 615.5133 [Corrected]

■ 3. On page 27500, in the first column, in § 615.5133, in paragraph (b), in the fourth sentence, the word ''banks'' is corrected to read ''bank's''.

§ 615.5140 [Corrected]

■ 4. On page 27502, in the third column, in § 615.5140, in paragraph (b)(3)(i), in the first sentence, the reference ''§ 615.5133(a), (b), (c), (d), and (e)'' is corrected to read ''§ 615.5133(a), (b), (c), (d), (e), (h), and (i).''

■ 5. On page 27502, in the third column, in § 615.5140, in paragraph (b)(4)(ii), in the first sentence, the reference ''§ 615.5132'' is corrected to read ''§ 615.5131''.

■ 6. On page 27503, in the first column, in § 615.5140, in paragraph (b)(6)(ii), in the first sentence, the reference ''paragraph (b)(3)'' is corrected to read ''paragraph (b)(4)''.

§ 615.5143 [Corrected]

■ 7. On page 27503, in the second column, in § 615.5143, in paragraph (a)(2), the reference ''§ 615.5140(b)(3)'' is corrected to read ''§ 615.5140(b)(4)''.

■ 8. On page 27503, in the third column, in § 615.5143, in paragraph (b)(3), the reference ''§ 615.5140(b)(3)'' is corrected to read ''§ 615.5140(b)(4)''.

Dated: June 26, 2018.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2018–14107 Filed 6–29–18; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31200; Amdt. No. 3806]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective July 2, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 2, 2018.

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

For Examination

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

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

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

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

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on June 15, 2018.

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

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

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject.
19–Jul–18	IA	Newton	Newton Muni-Earl Johnson Field.	7/1792	6/5/18	VOR RWY 14, Amdt 9A.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject.
19–Jul–18	GA	Washington	Washington-Wilkes County	7/2604	6/7/18	RNAV (GPS) RWY 31, Amdt 1A.
19–Jul–18	TX	Alice	Alice Intl	7/6033	6/5/18	VOR RWY 31, Amdt 13D.
19–Jul–18	TX	Alice	Alice Intl	7/6034	6/5/18	VOR–A, Amdt 15B.
19–Jul–18	IA	Ames	Ames Muni	8/0696	6/11/18	RNAV (GPS) RWY 19, Amdt 1.
19–Jul–18	NE	Kearney	Kearney Rgnl	8/0910	5/29/18	RNAV (GPS) RWY 13, Orig-A.
19–Jul–18	KS	Burlington	Coffey County	8/0936	6/5/18	NDB RWY 36, Amdt 2.
19–Jul–18	KS	Burlington	Coffey County	8/0937	6/5/18	RNAV (GPS) RWY 18, Orig-A.
19–Jul–18	PA	Beaver Falls	Beaver County	8/0984	5/29/18	RNAV (GPS) RWY 10, Orig-B.
19–Jul–18	PA	Beaver Falls	Beaver County	8/0985	5/29/18	RNAV (GPS) RWY 28, Orig-B.
19–Jul–18	PA	Beaver Falls	Beaver County	8/0986	5/29/18	VOR RWY 28, Amdt 10B.
19–Jul–18	MA	Stow	Minute Man Air Field	8/1764	6/11/18	VOR/DME RWY 21, Amdt 3D.
19–Jul–18	MA	Stow	Minute Man Air Field	8/1767	6/11/18	RNAV (GPS) RWY 21, Orig-A.
19–Jul–18	TX	Llano	Llano Muni	8/1773	5/29/18	VOR–A, Amdt 4.
19–Jul–18	TX	Llano	Llano Muni	8/1774	5/29/18	RNAV (GPS) RWY 17, Orig.
19–Jul–18	TX	Llano	Llano Muni	8/1775	5/29/18	RNAV (GPS) RWY 35, Orig.
19–Jul–18	MN	Rochester	Rochester Intl	8/2046	5/29/18	RADAR–1, Amdt 8.
19–Jul–18	CA	Bakersfield	Meadows Field	8/2899	5/29/18	ILS OR LOC RWY 30R, Amdt 31.
19–Jul–18	CA	Bakersfield	Meadows Field	8/2901	5/29/18	RNAV (GPS) RWY 30R, Amdt 2A.
19–Jul–18	WI	East Troy	East Troy Muni	8/3005	5/29/18	VOR/DME–A, Amdt 1B.
19–Jul–18	WI	East Troy	East Troy Muni	8/3009	5/29/18	RNAV (GPS) RWY 8, Orig-B.
19–Jul–18	WI	East Troy	East Troy Muni	8/3013	5/29/18	RNAV (GPS) RWY 26, Orig-B.
19–Jul–18	AK	Kake	Kake	8/3041	6/5/18	RNAV (GPS) RWY 11, Orig.
19–Jul–18	AK	Kake	Kake	8/3043	6/5/18	NDB/DME RWY 11, Amdt 1.
19–Jul–18	AL	Jackson	Jackson Muni	8/3051	6/7/18	RNAV (GPS) RWY 1, Orig.
19–Jul–18	MN	Longville	Longville Muni	8/3119	6/5/18	RNAV (GPS) RWY 31, Orig.
19–Jul–18	OH	Phillipsburg	Phillipsburg	8/3327	6/1/18	VOR OR GPS RWY 21, Amdt 3A.
19–Jul–18	OH	Phillipsburg	Phillipsburg	8/3329	6/1/18	Takeoff Minimums and Obstacle DP, Amdt 1.
19–Jul–18	TN	Camden	Benton County	8/3588	6/7/18	RNAV (GPS) RWY 22, Orig-C.
19–Jul–18	MT	Laurel	Laurel Muni	8/5735	5/21/18	RNAV (GPS) RWY 4, Amdt 1B.
19–Jul–18	MT	Laurel	Laurel Muni	8/5737	5/21/18	RNAV (GPS) RWY 22, Amdt 1B.
19–Jul–18	MT	Laurel	Laurel Muni	8/5739	5/21/18	VOR RWY 22, Amdt 2A.
19–Jul–18	IL	Bloomington/Normal	Central IL Rgnl Arpt at Bloomington-Normal.	8/6132	6/1/18	ILS OR LOC RWY 29, Amdt 11A.
19–Jul–18	IL	Decatur	Decatur	8/6136	6/1/18	ILS OR LOC RWY 6, Amdt 13F.
19–Jul–18	AR	Monticello	Monticello Muni/Ellis Field	8/6939	6/5/18	RNAV (GPS) RWY 3, Amdt 1B.
19–Jul–18	LA	Many	Hart	8/7523	6/6/18	RNAV (GPS) RWY 12, Orig.
19–Jul–18	LA	Many	Hart	8/7526	6/5/18	RNAV (GPS) RWY 30, Orig.
19–Jul–18	MA	Fitchburg	Fitchburg Muni	8/7537	6/7/18	RNAV (GPS) RWY 20, Orig-C.
19–Jul–18	WV	Lewisburg	Greenbrier Valley	8/7828	6/7/18	Takeoff Minimums and Obstacle DP, Amdt 4.
19–Jul–18	NC	Reidsville	Rockingham County NC Shiloh.	8/7839	6/7/18	RNAV (GPS) RWY 13, Orig.
19–Jul–18	NC	Reidsville	Rockingham County NC Shiloh.	8/7840	6/7/18	RNAV (GPS) RWY 31, Orig-A.
19–Jul–18	NC	Reidsville	Rockingham County NC Shiloh.	8/7842	6/7/18	NDB RWY 31, Amdt 5A.
19–Jul–18	NC	Reidsville	Rockingham County NC Shiloh.	8/7843	6/7/18	VOR/DME–A, Amdt 9A.
19–Jul–18	TX	Houston	Ellington	8/7904	6/5/18	ILS OR LOC RWY 22, Amdt 3G.
19–Jul–18	AL	Hartselle	Hartselle-Morgan County Regional.	8/7959	6/7/18	RNAV (GPS) RWY 18, Amdt 1.
19–Jul–18	AL	Hartselle	Hartselle-Morgan County Regional.	8/7960	6/7/18	RNAV (GPS) RWY 36, Amdt 1.
19–Jul–18	FL	St Augustine	Northeast Florida Rgnl	8/8029	6/7/18	RNAV (GPS) RWY 13, Orig-D.
19–Jul–18	FL	St Augustine	Northeast Florida Rgnl	8/8031	6/7/18	VOR RWY 13, Orig-D.
19–Jul–18	ND	Lakota	Lakota Muni	8/8043	6/5/18	RNAV (GPS) RWY 33, Orig.
19–Jul–18	OK	Ketchum	South Grand Lake Rgnl	8/8672	6/5/18	RNAV (GPS) RWY 36, Orig.
19–Jul–18	OK	Ketchum	South Grand Lake Rgnl	8/8673	6/5/18	RNAV (GPS) RWY 18, Orig.
19–Jul–18	AL	Ozark	Blackwell Field	8/8783	6/7/18	Takeoff Minimums and Obstacle DP, Amdt 2.
19–Jul–18	AL	Ozark	Blackwell Field	8/8796	6/7/18	RNAV (GPS) RWY 13, Orig-A.
19–Jul–18	AL	Ozark	Blackwell Field	8/8798	6/7/18	RNAV (GPS) RWY 31, Orig-A.
19–Jul–18	AL	Ozark	Blackwell Field	8/8803	6/7/18	VOR RWY 31, Amdt 7A.
19–Jul–18	MI	Bay City	James Clements Muni	8/8880	6/7/18	Takeoff Minimums and Obstacle DP, Amdt 6.
19–Jul–18	MI	Bay City	James Clements Muni	8/8882	6/7/18	RNAV (GPS) RWY 18, Orig-B.
19–Jul–18	MI	Bay City	James Clements Muni	8/8883	6/7/18	VOR–A, Amdt 12A.
19–Jul–18	MO	Aurora	Jerry Sumners Sr Aurora Muni	8/9567	6/5/18	RNAV (GPS) RWY 18, Orig-A.
19–Jul–18	MO	Aurora	Jerry Sumners Sr Aurora Muni	8/9575	6/5/18	VOR/DME–A, Amdt 4.
19–Jul–18	AZ	Grand Canyon	Valle	8/9769	5/29/18	GPS RWY 01, Orig-B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject.
19–Jul–18	AZ	Grand Canyon	Valle	8/9770	5/29/18	VOR/DME RWY 19, Orig.
19–Jul–18	AZ	Grand Canyon	Valle	8/9773	5/29/18	GPS RWY 19, Orig-A.
19–Jul–18	MA	Worcester	Worcester Rgnl	8/9807	5/29/18	ILS OR LOC RWY 11, Amdt 25.
19–Jul–18	AL	Dothan	Dothan Rgnl	8/9937	6/7/18	RNAV (GPS) RWY 14, Amdt 2A.

[FR Doc. 2018–13932 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31199; Amdt. No. 3805]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective July 2, 2018. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 2, 2018.

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

For Examination

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

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

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

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

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) ; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on June 15, 2018.

John S. Duncan,

Executive Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 19 July 2018

Kokhanok, AK, Kokhanok, RNAV (GPS) RWY 7, Amdt 1
Kokhanok, AK, Kokhanok, RNAV (GPS) RWY 25, Amdt 1
Kokhanok, AK, Kokhanok, Takeoff Minimums and Obstacle DP, Amdt 1
Fayette, AL, Richard Arthur Field, Takeoff Minimums and Obstacle DP, Amdt 2
Mountain View, CA, Moffett Federal Afld, RNAV (GPS) RWY 14L, Orig
Mountain View, CA, Moffett Federal Afld, RNAV (GPS) RWY 14R, Orig
Mountain View, CA, Moffett Federal Afld, RNAV (GPS) RWY 32L, Orig
Upland, CA, Cable, RNAV (GPS) RWY 6, Amdt 1B
Rangely, CO, Rangely, RNAV (GPS) RWY 7, Orig
Rangely, CO, Rangely, RNAV (GPS) RWY 25, Orig
New Haven, CT, Tweed-New Haven, ILS OR LOC RWY 2, Amdt 18
New Haven, CT, Tweed-New Haven, VOR RWY 2, Amdt 23, CANCELED
Boca Raton, FL, Boca Raton, RNAV (GPS) Y RWY 23, Amdt 1B
Boca Raton, FL, Boca Raton, RNAV (RNP) Z RWY 23, Orig-B
Boca Raton, FL, Boca Raton, VOR–A, Amdt 1B
Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 9, Amdt 2
Atlanta, GA, Newnan Coweta County, ILS OR LOC RWY 32, Orig-A
Donalsonville, GA, Donalsonville Muni, RNAV (GPS) RWY 1, Amdt 1C
Donalsonville, GA, Donalsonville Muni, RNAV (GPS) RWY 19, Amdt 1B
Donalsonville, GA, Donalsonville Muni, VOR–A, Amdt 3B
Savannah, GA, Savannah/Hilton Head Intl, RNAV (RNP) Y RWY 28, Amdt 2
Iowa City, IA, Iowa City Muni, RNAV (GPS) RWY 25, Amdt 1
Iowa City, IA, Iowa City Muni, RNAV (GPS) RWY 30, Amdt 1
Iowa City, IA, Iowa City Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Champaign/Urbana, IL, University Of Illinois-Willard, ILS OR LOC RWY 32R, Amdt 13A
Plymouth, IN, Plymouth Muni, RNAV (GPS) RWY 28, Orig-A
Plymouth, MA, Plymouth Muni, ILS OR LOC RWY 6, Amdt 1F
Plymouth, MA, Plymouth Muni, RNAV (GPS) RWY 6, Amdt 1D
Plymouth, MA, Plymouth Muni, RNAV (GPS) RWY 15, Orig-A
Plymouth, MA, Plymouth Muni, RNAV (GPS) RWY 24, Orig-C
Plymouth, MA, Plymouth Muni, RNAV (GPS) RWY 33, Orig
Hattiesburg, MS, Hattiesburg Bobby L Chain Muni, RNAV (GPS) Z RWY 13, Amdt 1B
Omaha, NE, Eppley Airfield, RNAV (RNP) Z RWY 32R, Amdt 1A
Manchester, NH, Manchester, ILS OR LOC RWY 6, Amdt 3
Manchester, NH, Manchester, ILS OR LOC RWY 17, Amdt 3
Manchester, NH, Manchester, ILS OR LOC RWY 35, ILS RWY 35 SA CAT I, ILS RWY 35 CAT II, ILS RWY 35 CAT III, Amdt 3
Olean, NY, Cattaraugus County-Olean, LOC RWY 22, Amdt 7
Olean, NY, Cattaraugus County-Olean, RNAV (GPS) RWY 4, Amdt 2
Olean, NY, Cattaraugus County-Olean, RNAV (GPS) RWY 22, Amdt 2
Watertown, NY, Watertown Intl, RNAV (GPS) RWY 7, Amdt 3
Watertown, NY, Watertown Intl, RNAV (GPS) RWY 10, Amdt 1
Toledo, OH, Toledo Executive, RNAV (GPS) RWY 4, Amdt 1
Toledo, OH, Toledo Executive, RNAV (GPS) RWY 32, Amdt 2
Toledo, OH, Toledo Executive, VOR RWY 4, Amdt 9D, CANCELED
Astoria, OR, Astoria Rgnl, COPTER LOC RWY 26, Amdt 2
Astoria, OR, Astoria Rgnl, COPTER VOR RWY 8, Orig
Astoria, OR, Astoria Rgnl, COPTER VOR/DME OR GPS 066, Amdt 1, CANCELED
Astoria, OR, Astoria Rgnl, ILS RWY 26, Amdt 3B
Astoria, OR, Astoria Rgnl, RNAV (GPS) RWY 8, Amdt 1
Astoria, OR, Astoria Rgnl, RNAV (GPS) RWY 26, Amdt 1
Astoria, OR, Astoria Rgnl, VOR RWY 8, Amdt 12A
Meadville, PA, Port Meadville, LOC RWY 25, Amdt 6E
Meadville, PA, Port Meadville, RNAV (GPS) RWY 7, Amdt 1D
Meadville, PA, Port Meadville, RNAV (GPS) RWY 25, Amdt 1E
Meadville, PA, Port Meadville, VOR RWY 7, Amdt 8B, CANCELED
Brownwood, TX, Brownwood Rgnl, LOC RWY 17, Amdt 4B
Brownwood, TX, Brownwood Rgnl, RNAV (GPS) RWY 17, Amdt 1A
Brownwood, TX, Brownwood Rgnl, RNAV (GPS) RWY 35, Amdt 1A
Brownwood, TX, Brownwood Rgnl, VOR RWY 35, Amdt 1C
San Antonio, TX, Boerne Stage Field, RNAV (GPS) RWY 17, Amdt 1B
San Antonio, TX, Boerne Stage Field, Takeoff Minimums and Obstacle DP, Orig-A
Wharton, TX, Wharton Rgnl, NDB RWY 14, Orig-A
Wharton, TX, Wharton Rgnl, NDB RWY 32, Orig-A
Wharton, TX, Wharton Rgnl, RNAV (GPS) RWY 14, Orig-A
Wharton, TX, Wharton Rgnl, RNAV (GPS) RWY 32, Orig-A
Milwaukee, WI, Lawrence J Timmerman, VOR RWY 4L, Amdt 9C, CANCELED
Jackson, WY, Jackson Hole, ILS Z OR LOC Z RWY 19, Orig-B

RESCINDED: On June 5, 2018 (83 FR 25909), the FAA published an Amendment in Docket No. 31195, Amdt No. 3801, to Part 97 of the Federal Aviation Regulations under section 97.33. The following entry for Oakland, CA, effective July 19, 2018, is hereby rescinded in its entirety:

Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 12, Amdt 2

[FR Doc. 2018–13934 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1237

[CPSC Docket No. 2017–0023]

Safety Standard for Booster Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the Consumer Product Safety Improvement Act of 2008 (CPSIA), the U.S. Consumer

Product Safety Commission (CPSC) is issuing this final rule establishing a safety standard for booster seats. The Commission is also amending its regulations regarding third party conformity assessment bodies to include the safety standard for booster seats in the list of notices of requirements (NORs).

DATES: This rule will become effective January 2, 2020. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as January 2, 2020.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Lead Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. Standards issued under section 104 of the CPSIA are to be ''substantially the same as'' the applicable voluntary standards or more stringent than the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,'' and the statute specifies 12 categories of products that are included in the definition, including various types of children's chairs. Section 104(f)(2)(C) of the CPSIA specifically identifies ''booster chairs'' as a durable infant or toddler product. Additionally, the Commission's regulation requiring product registration cards defines ''booster seats'' as a durable infant or toddler product subject to the registration card rule. 74 FR 68668 (Dec. 29, 2009); 16 CFR 1130.2(a)(3).

As required by section 104(b)(1)(A) of the CPSIA, the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop this rule, largely through the ASTM process. On May 19, 2017, the Commission issued a notice of proposed rulemaking (NPR) for booster seats.[1] 82 FR 22925. The NPR proposed to incorporate by reference the voluntary standard, without modification, developed by ASTM International, ASTM F2640–17$^{\varepsilon 1}$, *Standard Consumer Safety Specification for Booster Seats* (ASTM F2640–17$^{\varepsilon 1}$).

In this document, the Commission is issuing a final mandatory consumer product safety standard for booster seats. Since the NPR published, ASTM approved (April 1, 2018) and published (April, 2018) the current version of the voluntary standard for booster seats, ASTM F2640–18, *Standard Consumer Safety Specification for Booster Seats* (ASTM F2640–18), with three changes from the previous version:

- New performance and testing requirements for a new type of booster seat that hangs from the back of an adult chair;
- Clarification of the installation position for measuring a booster seat on an adult chair; and
- New warning statement in the instructional literature to address booster seats that do not have a reclined position.

As set forth in section IV.C.2 of this preamble, the Commission finds that each of these changes enhances the safety of booster seats.[2] Accordingly, after the Commission's review and consideration of the revised ASTM standard and the comments on the NPR, the final rule incorporates by reference, without modification, the most recent voluntary standard for booster seats, ASTM F2640–18.

Additionally, the final rule amends the list of notices of requirements (NORs) issued by the Commission in 16 CFR part 1112 to include the standard for booster seats. Under section 14 of the CPSA, the Commission promulgated 16 CFR part 1112 to establish requirements for accreditation of third party conformity assessment bodies (or testing laboratories) to test for conformity with a children's product safety rule. Amending part 1112 adds an NOR for the booster seat standard to the list of children's product safety rules.

[1] Staff's May 3, 2017 Briefing Package for the NPR (Staff's NPR Briefing Package) is available at: *https://www.cpsc.gov/s3fs-public/Notice%20of%20Proposed%20Rulemaking%20-%20Booster%20Seats%20-%20May%203%202017.pdf?97pmoM5UAGyQBBPFtTPyvFu_RjCZMAwL.*

[2] Tabs B and C of the June 20, 2018 Staff's Draft Final Rule for Booster Seats Under the Danny Keysar Child Product Safety Notification Act (Staff's Final Rule Briefing Package) explain and assess the new warning statement and the performance and testing requirements in the standard. The Staff's Final Rule Briefing Package is available at *https://www.cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Booster%20Seats%20-%20June%2020%202018.pdf?cCIgKaAyOt3nn.yeNTa5f8rpH7DsJB0v.*

II. Product Information

A. Definition of ''Booster Seat''

ASTM F2640–18 defines a ''booster seat'' as:

> a juvenile chair, which is placed on an adult chair to elevate a child to standard dining table height. The booster seat is made for the purpose of containing a child, up to 5 years of age, and normally for the purposes of feeding or eating. A booster seat may be height adjustable and include a reclined position.

Booster seats may be constructed from a wide variety of materials, including wood, plastic, fabric, metal, and/or foam. Most booster seats, notably those intended for home use, have removable trays, allowing a table to be used as an alternative eating surface. Some booster seats are intended to double as floor seats for toddlers, and others are high chair/booster seat combination products. The ASTM standard covers combination products when the product is in a booster seat configuration.

The definition of ''booster seat'' in ASTM F2640–18 is broad and includes within the scope of the standard booster seats that are designed specifically for use in restaurants. Several suppliers sell these ''food-service'' booster seats directly to restaurants or through restaurant supply companies. Consumers also may purchase some of these products directly, for example, through online third parties that act as brokers between buyers and sellers. Consequently, consumers use food-service booster seats in homes and in restaurant establishments open to the public. The Commission agrees with the scope of ASTM F2640–18, and is not excluding food-service booster seats from the final rule.

The final rule for booster seats does *not* cover children's seats intended for use in motor vehicles, which are also sometimes referred to as ''booster seats.''

B. Market Description

CPSC staff identified 44 domestic firms supplying booster seats to the U.S. market. Thirty-four (34) domestic firms market their booster seats exclusively to consumers, while ten (10) domestic firms sell booster seats exclusively to restaurant or restaurant supply stores (usually through regional distributors or an internal portal). Sixteen of the 34 domestic firms that sell exclusively to

consumers are compliant with the current voluntary standard for booster seats. Of the 10 domestic firms selling food-service booster seats, none are compliant with the ASTM voluntary standard. Of the 44 known domestic suppliers, 29 are domestic manufacturers (10 large and 19 small), 14 are domestic importers (five large and nine small), and one is a small domestic firm whose supply source staff could not determine.[3]

Staff identified two foreign manufacturers selling directly to the United States. Other foreign booster seats are entering the U.S. market in a variety of ways as well. Staff found that online storefronts and online retailers, acting as brokers between buyers and sellers, are the source of a large number of booster seat products, particularly from Asia and Europe. Products purchased through these websites are sometimes shipped by the individual sellers. Often, staff cannot determine whether an online seller is located in the United States, or overseas, or whether the seller is a manufacturer, retailer, or importer, which makes it difficult for staff to categorize these companies for analysis. Staff found that European booster seats are also entering the U.S. market through foreign retailers who are willing to ship directly to the United States. Booster seats available online from foreign suppliers are less likely to be compliant with the ASTM voluntary standard.

III. Incident Data

A. CPSRMS Data

The data discussed in this section come from CPSC's Consumer Product Safety Risk Management System (CPSRMS), which collects data from consumer reports, medical examiners, other state and local authorities, retailer reports, newspaper clippings, death certificates, and follow-up CPSC In-Depth Investigations of reported incidents.[4] From the CPSRMS, CPSC is aware of a total of 912 incidents (2 fatal and 152 nonfatal injuries) related to booster seats reported to have occurred from January 1, 2008 through October 31, 2017.[5] The 912 booster seat incidents include 45 new booster seat-related incidents reported since publication of the NPR (collected between October 1, 2016 and October 31, 2017). None of the 45 newly reported incidents is a fatality. All of the newly reported incidents fall within the same hazard patterns identified in the NPR. Retailers and manufacturers reporting through the CPSC's ''Retailer Reporting Program'' account for 93 percent of the newly reported incidents (42 out of 45 incidents). CPSC received the remaining three incident reports from consumers using *SaferProducts.gov.* CPSC Field staff conducted an In-Depth Investigation on one of the newly reported incidents.

1. Fatalities

CPSC received reports of two fatalities associated with the use of a booster seat. Both incidents occurred in 2013 and were described in the NPR:

- In one incident, a 22-month-old female, sitting on a booster seat attached to an adult chair, pushed off from the table and tipped the adult chair backwards into a glass panel of a china cabinet behind her. The cause of death was listed as ''exsanguination due to hemorrhage from incised wound.''
- In the other incident, a 4-year-old male fell from a booster seat to the floor; he seemed uninjured at the time, but later that evening while riding his bike, the child fell, became unresponsive, and later died. The cause of death was multiple blunt force trauma.

2. Nonfatalities

CPSC is aware of 152 booster seat nonfatal injury incidents occurring between January 1, 2008 and October 31, 2017 (146 incidents reported in the NPR and 6 newly reported incidents). A majority of these incidents involved children 18 months and younger. The severity of the injury types among the 152 reported injuries are described below:

- Five children required a hospital admission. The injuries were skull fractures, concussions, and other head injuries.
- Another 22 children were treated and released from a hospital emergency department (ED) for injuries resulting mostly from falls.
- The remaining incidents primarily involved contusions, abrasions, and lacerations, due to falls or entrapment of limbs/extremities.

No injury occurred, or the report did not mention an injury occurring, for the remaining 758 incident reports (719 incidents reported in the NPR and 39 newly reported incidents). However, CPSC staff's review of these incident report descriptions indicates the potential for a serious injury or even death.

B. Hazard Pattern Identification

CPSC considered all 912 reported incidents to identify the following hazard patterns associated with booster seats:

1. *Restraint/Attachment Problems (37%):* 339 incidents (317 incidents reported in the NPR and 22 newly reported incidents) involved the mechanism for attaching a booster seat to an adult chair, or the restraint system that contains the child within the booster seat. Issues with the attachment mechanism included anchor buckles/clasps/straps breaking, tearing, fraying, detaching or releasing. Restraint-system problems included: buckles/prongs breaking, jamming, releasing too easily, or separating from straps; straps tearing or fraying, pinching, or coming undone; and general inadequacy or ineffectiveness of restraints in containing the child in place. In 21 incident reports, staff could not determine from the report if the buckle or strap referred to in the report meant the restraint or the attachment system. In eight of the incident reports, both systems were reported to have failed. Thirty-seven injuries (all reported in the NPR) are included in this category, of which seven were treated at a hospital ED.

2. *Seat-Related Issues (28%):* 255 incidents (254 incidents reported in the NPR and 1 newly reported incident) involved seat-related issues. These incidents included failure of the lock/latch that controls the seat-recline function; tearing, cracking, and/or peeling seat pads; detaching seat backs; failure of seat height adjustment lock/latches; and seats detaching from the base of certain models. Twenty-two injuries are included in this category: Three resulting in hospitalization and five ED-treated injuries. The newly reported incident involved the booster *seatback* detaching altogether, allowing the child to fall and sustain multiple skull fractures, requiring hospitalization.

3. *Tray-Related Issues (21%):* 189 incidents (171 incidents reported in the NPR and 18 newly reported incidents) involved issues related to booster seat trays. These incidents included tray

[3] Staff made determinations using information from Dun & Bradstreet and ReferenceUSAGov, as well as firm websites.

[4] These reported deaths and incidents do not provide a complete count of all that occurred during this time period. However, they do provide a minimum number of incidents occurring during this period and illustrate the circumstances involved in the incidents related to booster seats.

[5] The NPR described incidents reported to have occurred from January 1, 2008 through September 30, 2016. A detailed description of these data can be found in Tab A of the Staff's NPR Briefing Package.

Tab A of the Staff's Final Rule Briefing Package provides a detailed description of the 45 newly reported incidents (collected between October 1, 2016 and October 31, 2017). Fifty-three percent of the 45 newly reported incidents were reported to have occurred between October 2016 and October, 2017 (*i.e.,* post-NPR timeframe). The remaining 47 percent of newly reported incidents occurred during the timeframe covered in the NPR.

paint finish peeling off, trays failing to lock/stay locked, trays with sharp protrusions on the underside, trays too tight/difficult to release, and trays pinching fingers. These incidents also included complaints about broken toy accessories, which are usually attached to the tray (or tray insert). Thirty-eight injuries are included in this category, including one that required ED treatment.

4. *Design Problems (3.8%):* 35 incidents (33 discussed in the NPR and 2 newly reported) involved a potential entrapment hazard due to the design of the booster seat. Most of these incidents involved limbs, fingers, and toes entrapped in spaces/openings between the armrest and seat back/tray, between the passive crotch-restraint bar and the seat/tray, between the tray inserts, or in toy accessories. Sixteen injuries were included in this category, two requiring ED treatment.

5. *Stability-Related Issues (3.4%):* 31 incidents, discussed in the NPR, involved booster seat stability. Most of these incidents (27 of 31) concerned the adult chair to which the booster seat was attached tipping back or tipping over. Some of these incidents resulted from the child pushing back from the table or counter. Twenty-two injuries (including two hospitalizations and five ED-treated injuries) and one fatality are included in this category.

6. *Armrest Problems (2.6%):* 24 incidents, discussed in the NPR, involved booster seat armrests cracking or breaking. In a few cases, the armrest reportedly arrived broken inside the booster seat packaging. One injury is included in this category.

7. *Miscellaneous Product Issues (1.9%):* 17 miscellaneous incidents (16 incidents reported in the NPR and 1 newly reported incidents) involved a variety of product-related issues, including unclear assembly instructions, poor quality construction, odor, rough surface, rough edges, breakage, or loose hardware at unspecified sites. One incident report alleged that the poor design of the booster seat failed to contain/support the child and led to a fall injury. Ten injuries were included in this category, including two ED-treated injuries.

8. *Combination of Multiple Issues (1.9%):* 17 incidents, discussed in the NPR, involved a combination of the product hazards listed above. Four injuries were included in this category.

9. *Unknown Issues (0.5%):* Five incidents involved unknown issues (4 incidents reported in the NPR and 1 newly reported incident). In these incidents, CPSC staff had insufficient information to determine how the incidents occurred. One incident in this category, a fatality, reported confounding factors that likely contributed to the death. Two other injuries were reported in this category, including a fall injury.

C. NEISS Data

The National Electronic Injury Surveillance System (NEISS), a statistically valid injury surveillance system,[6] is the source of the injury estimates discussed in this section. Since the NPR, new ED-treated injury data have become available for 2016. However, the estimates for 2016 are not reportable per NEISS publication criteria.[7] As such, the Commission presents the injury estimates and injury characteristics for the aggregate data from 2008 through 2016.

CPSC staff estimates a total of 12,000 injuries (sample size = 455, coefficient of variation = 0.10) related to booster seats were treated in U.S. hospital EDs over the 9-year period from 2008 through 2016. NEISS data for 2017 is not complete at this point in time. Similar to 2016, staff cannot report injury estimates for some of the other individual years because of the NEISS publication criteria. Note, however, that staff did not observe any trend over the 9-year period regarding injuries increasing or decreasing.

No deaths were reported through the NEISS. About 64 percent of the injured were younger than 2 years of age; among the remaining, 24 percent, 8 percent, and 4 percent were 2-year-olds, 3-year-olds, and 4-year-olds, respectively. For the ED-treated injuries related to booster seats reported in the 9-year period, the following characteristics occurred most frequently:

- Hazard—falls out of the booster seat (97 percent). Most of the falls were due to:
  - Unspecified circumstances (55 percent).
  - Unspecified tip overs (18 percent); tip overs due to child pushing back or rocking in seat (6 percent).
  - Booster seat attachment or child-restraint mechanism failure/defeat/non-use (8 percent).
- Injured body part—head (58 percent), face (22 percent), and mouth (7 percent).
- Injury type—internal organ injury (40 percent), lacerations (24 percent), and contusions/abrasions (19 percent).
- Disposition—treated and released (about 98 percent).

Incidents in a Restaurant Setting. For the NPR, CPSC staff noted that although most of the incidents occurred in home settings, one incident report explicitly mentioned a restaurant where an infant was using a booster seat provided by the establishment. Among the new incidents that staff analyzed, none occurred at a restaurant.

Among the NEISS ED-treated injury data, from 2008 to 2016, 31 injury reports explicitly mentioned that the injury occurred in a restaurant setting. Although these 31 reports are included in the larger sample that yielded the total estimated number of injuries of 12,000, a national injury estimate for restaurant injuries *only* does not meet the NEISS publication criteria and is not presented here. Staff reviewed the injury characteristics in these reports, which indicated that all of the injuries resulted from falls, but the circumstances were unspecified for the most part. Staff cannot discern from the injury reports whether the booster seats involved were provided by the establishment.

D. Product Recalls

Compliance staff reviewed recalls of booster seats that occurred from January 1, 2008 to May 30, 2018. During that time, two consumer-level recalls involved booster seats. Both recalls involved a fall hazard. One recalled product was associated with a fall hazard when the stitching on the booster seat's restraint straps loosened, allowing the straps to separate from the seat and the child to fall out of the seat. Another recall involved the booster seat restraint buckle, which opened unexpectedly, allowing a child to fall from the chair and be injured.

IV. Overview and Assessment of ASTM F2640

A. Overview of ASTM F2640

The voluntary standard for booster seats, ASTM F2640, *Standard Consumer Safety Specification for Booster Seats,* is

[6] NEISS injury data are gathered from EDs of hospitals selected as a probability sample of all the U.S. hospitals with EDs open 24 hours a day that have at least six beds. The surveillance data gathered from the sample hospitals enable the CPSC staff to make timely national estimates of the number of injuries associated with specific consumer products.

Staff extracted all data coded under product code 1556 (*Attachable high chairs including booster seats*) for patients aged under 5 years. Staff considered certain records out-of-scope for the purposes of this memorandum. For example, staff excluded hook-on chair-related incidents that are also covered under product code 1556 or car booster seats incorrectly coded as 1556; and also considered out-of-scope a sibling or a pet knocking over the adult chair holding the booster seat containing the child. Staff excluded these records prior to deriving the statistical injury estimates.

[7] According to the NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33 percent or smaller.

intended to minimize the risk of injury or death to infants in booster seats associated with falls from booster seats, tipping over or out of booster seats, restraint disengagement or lack of a restraint system, tray disengagement, booster seats stability while attached to an adult chair, entrapments in booster seats, and other hazards such as cuts, bruises, and lacerations. ASTM F2640 was first approved and published in 2007, as ASTM F2640–07, *Standard Consumer Safety Specification for Booster Seats.* ASTM has since revised the voluntary standard 11 times. Tab C of Staff's Final Rule Briefing Package includes a description of each revision through 2018.

The current version of the standard, ASTM F2640–18, was approved on April 1, 2018, and published in April 2018. ASTM F2640–18 includes three changes from the version of the standard proposed in the NPR, ASTM F2640–17$^{\varepsilon 1}$:

- New performance and testing requirements for a new type of booster seat that hangs from the back of an adult chair;
- Clarification of the installation position for measuring a booster seat on an adult chair; and
- New warning statement in Instructional Literature to address booster seats that do not have a recline position.

In section IV.C below, we describe and assess each change.

B. Description of ASTM F2640–18

ASTM F2640–18 includes these key provisions: Scope, terminology, general requirements, performance requirements, test methods, marking and labeling, and instructional literature.

Scope. This section describes what constitutes a ''booster seat.'' As stated in section II.A. of this preamble, the Scope section describes a booster seat as ''a juvenile chair, which is placed on an adult chair to elevate a child to standard dining table height.'' The description further specifies appropriate ages for children using a booster seat, stating, a ''booster seat is made for the purpose of containing a child, up to 5 years of age, and normally for the purposes of feeding or eating.''

Terminology. This section defines terms specific to this standard.

General Requirements. This section addresses numerous hazards with several general requirements; most of these general requirements are also found in the other ASTM juvenile product standards. The general requirements included in this section are:

- Sharp points or edges;
- Small parts;
- Wood parts;
- Lead in paint;
- Scissoring, shearing, and pinching;
- Openings;
- Exposed coil springs;
- Protective components;
- Labeling; and
- Toys.

Performance Requirements and Test Methods. These sections contain performance requirements specific to booster seats (discussed here) and the required test methods to assess conformity with such requirements.

- *Tray impact test:* This test assesses the tray's resistance to breaking into small pieces or creating sharp points/edges when dropped from a specified height.
- *Tray engagement test:* This test assesses the tray's ability to remain engaged to the booster seat when subjected to a specified force horizontally and vertically.
- *Static load test:* This test assesses whether the booster seat can support its maximum recommended weight, by gradually applying a static load on the center of the seating surface for a specified amount of time.
- *Restraint system test:* This test assesses whether the restraint system can secure a child in the manufacturer's recommended-use positions.
- *Seat attachment test:* This test specifies that a booster seat must have a means of attaching a booster seat to an adult chair and assesses the booster seat's ability to remain fastened to the adult chair when force is applied.
- *Structural integrity (dynamic load):* This requirement assesses the durability of the booster seat, including locking/latching devices which prevent folding or adjustment of the booster seat.
- *Maximum booster seat dimensions:* This requirement assesses how large a booster seat can be in relation to the adult chair dimensions specified on the booster seat's packaging.

Marking and Labeling. This section contains various requirements related to warnings, labeling, and required markings for booster seats, and it prescribes various substance, format, and prominence requirements for this information.

Instructional Literature. This section requires that easily readable and understandable instructions be provided with booster seats. Additionally, the section contains requirements related to instructional literature contents and format.

C. Assessment of ASTM F2640–18

CPSC staff identified 912 incidents (including two fatalities) related to the use of booster seats. CPSC staff examined the incident data, identified hazard patterns in the data, and worked with ASTM to develop and update the performance requirements in ASTM F2640. The incident data and identified hazard patterns formed the basis for ASTM to develop ASTM F2640–18 with CPSC staff's support throughout the process.[8] The following section discusses how each of the identified product-related issues or hazard patterns listed in section III.C. of this preamble is addressed by the current voluntary standard, and it also describes and assesses each of the three changes included in ASTM F2640–18.

1. Adequacy of ASM F2640–18 To Address Hazard Patterns

a. Restraint/Attachment Problems

Restraint system and attachment problems included buckles/prongs breaking, jamming, releasing too easily, or separating from straps; straps tearing or fraying, pinching, or coming undone; and inadequacy or ineffectiveness of restraints in containing the child in place, Similarly, complaints about the seat attachment system involved anchor buckles/clasps/straps breaking, tearing, fraying, detaching, or releasing. The Commission has reviewed CPSC staff's evaluation of the attachment and restraint system tests in ASTM F2640–18, and concludes that these tests adequately address the identified hazards.

Section 6.5 of ASTM F2640–18 requires that a booster seat must have a means of ''attaching'' to an adult chair, and be able to withstand a specified force without becoming detached from the adult chair. Booster seats may employ several methods to secure to an adult chair, including straps, suction, and anti-skid bottoms or grip feet that minimize slippage on the chair by means of friction. However, because ''grip feet'' and ''friction bottoms'' do not actually attach (*i.e.,* fasten) the booster seat to an adult chair, the ASTM standard does not consider these to be a means of *securing* or *attaching* booster seats to an adult chair. The Commission agrees. Conversely, because suction physically fastens the booster seat to an adult chair, the ASTM standard considers suction to be a means of attachment under Section 6.5 of the current ASTM standard. The Commission agrees with this as well. Accordingly, the final rule requires any booster seat using suction as a means of

[8] Assessment of ASTM F2640–17$^{\varepsilon 1}$ in the NPR is at 82 FR 22928–29, and in Tab B of Staff's NPR Briefing Package.

attachment to pass the attachment test to be compliant.

b. Seat-Related Issues

Seat-related issues included failure of the lock/latch that controls the seat-recline function; seat pads tearing, cracking, and/or peeling; seat backs detaching altogether; seat height adjustment lock/latch failures; and seat detachment from the base that is available for certain models. The Commission has reviewed CPSC staff's evaluation of the static load and dynamic booster seat tests in ASTM F2640–18, and concludes that these tests adequately address these hazards.

c. Tray-Related Issues

Tray-related issues included trays with paint finish peeling off, trays failing to lock/stay locked, trays with sharp protrusions on the underside, trays that were too tight/difficult to release, and trays pinching fingers. The Commission has reviewed CPSC staff's evaluation of the standard, and concludes that the general requirements section of F2640–18 adequately addresses peeling paint, sharp protrusions, and pinching hazards, and the standard's tray engagement test adequately address the tray locking failures.

d. Design Problems

Booster seat design problems resulted in limbs, fingers, and toes entrapped in spaces/openings between the armrest and seat back/tray, between a passive crotch restraint bar and seat/tray, between tray inserts, or in toy accessories. The Commission has reviewed CPSC staff's evaluation of the general requirements of ASTM 2640–18 (namely requirements relating to scissoring, shearing, and pinching, openings, and toys) and concludes that the ASTM standard adequately addresses the identified hazards.

e. Stability-Related Issues

Stability-related incidents included instances where the adult chair, to which the booster seat was attached, tipped back or tipped over. Addressing the stability of the booster seat while attached to an adult chair is difficult in a standard for booster seats because stability depends on the adult chair. The ASTM booster seat subcommittee and CPSC staff worked diligently to find an effective requirement to adequately address stability without specifying requirements for the adult chair. Although ASTM F2640–18 does not contain a performance requirement to address this hazard, it does contain a labeling provision, requiring that booster seats must contain a cautionary statement: ''Never allow a child to push away from table.'' Moreover, ASTM F2640–18 requires a booster seat to identify on the booster seat packaging the size of adult chair on which the booster seat can fit, thereby allowing consumers to make a more informed purchasing choice.

f. Armrest Problems

Armrest problems included booster seat armrests cracking, and in a few cases, the armrest arriving to the consumer broken in the packaging. The Commission has reviewed CPSC staff's evaluation of the static and dynamic load tests contained in ASTM F2640–18, and concludes that those tests adequately address armrest-related hazards.

g. Miscellaneous Product-Related Issues

Miscellaneous product-related issues included unclear assembly instructions, poor quality construction, odor, rough surfaces, breakage, or loose hardware at unspecified sites. The Commission has reviewed CPSC staff's evaluation of the general requirements section, as well as the instructional literature requirements of ASTM F2640–18, and concludes that those requirements adequately address this hazard.

2. Description and Assessment of Changes in ASTM F2640–18

Below we describe each of the three changes in the voluntary standard since publication of the NPR, as reflected in ASTM F2640–18. The Commission finds that each of these requirements enhances the safety of booster seats and strengthens the standard incorporated as the final rule for booster seats.

a. New Performance and Testing Requirements for a New Type of Booster Seat That Hangs From the Back of an Adult Chair

The new style of booster seat attaches to the adult chair fundamentally differently than typical booster seats. This new design can fold and is marketed as a travel booster seat. Typical booster seats are placed on the seat of the chair and usually attached to the seat and back with straps. Thus, the typical booster seat rests on the chair seat and the adult chair seat bears all of the booster seat's weight. The new style of booster seat has a frame that hangs over the top of the adult chair seat back, usually with umbrella style hooks, and has feet that rest on the seat of the adult chair. The child's seating area is attached to the frame. Tab C of Staff's Final Rule Briefing Package contains a picture of this design.

Section 6.7 of ASTM F2640–18 addresses this style of booster seat and has two requirements. The first requirement states that, when in all manufacturer's recommended use positions, the booster seat must not tilt forward more than 10 degrees from the horizontal. This requirement was added because a seat that is tilted forward too far may result in a child falling out of the seat. The second requirement states that the backrest support contact must contact the top of the adult chair backrest and extend over and below the top rear edge of the adult chair backrest. This requirement was added to ensure that the booster seat is reasonably secure to the adult chair backrest so that the booster seat does not fall off the adult chair.

Section 6.8 of ASTM F2640–18 addresses the maximum booster seat dimensions. The previous version, ASTM F2640–17$^{\varepsilon 1}$, also had a section addressing maximum dimensions, but it did not include requirements for the new, over-the-backrest-style booster seats. The latest version incorporates the previous requirements, but it also includes the requirements specific to this new style of booster seat.

b. Clarification of the Installation Position for Measuring a Booster Seat on an Adult Chair

Section 7.10.1.1 of ASTM F2640–18 explains how to measure the maximum booster seat dimension for both traditional and over-the-backrest style booster seats and includes a diagram of a test fixture to be used for over-the-backrest seats and a diagram of their proper installation. This test protocol was added to provide clarity and ensure that testing labs are performing the tests consistently.

c. New Warning Statement in Instructional Literature To Address Booster Seats That Do Not Have a Recline Position

Section 9 (Instructional Literature) of F2640–18 contains a new requirement, Section 9.5, stating that if the booster seat has no recline feature, the instructions shall contain a statement addressing that the product is only for children capable of sitting upright unassisted.

D. International Standards for Booster Seats

The Commission is aware of one international voluntary standard pertaining to booster seats, BS EN16120 Child Use and Care Articles—Chair Mounted Seat. CPSC staff compared the performance requirements of ASTM F2640–18 to the performance

requirements of BS EN16120, which is intended for a similar product category, and identified several differences. Primarily, the scope of ASTM F2640–18 includes products intended for children up to 5 years of age, while EN 16120 is intended for products up to an age of 36 months, or a maximum weight of 15 kg (33 lbs.).

Staff found that some individual requirements in the BS EN16120 standard are more stringent than ASTM F2640–18. For example, BS EN16120 includes requirements for head entrapment, lateral protection, surface chemicals, cords/ribbons, material shrinkage, packaging film, and monofilament threads. Staff did not identify any hazard patterns in CPSC's incident data that such provisions could address. Conversely, some individual requirements in ASTM F2640–18 are more stringent than those found in EN 16120. For example, ASTM F2640–18 includes requirements for tray performance and toy accessories. Currently, CPSC is not aware of any technically feasible method to test for the most prevalent and dangerous hazard pattern, falls resulting from tipping over in an adult chair. However, CPSC staff will continue to monitor hazard patterns and recommend future changes to the Commission, if necessary.

V. Response to Comments

CPSC received eight comments on the NPR. Four commenters generally supported the NPR. Two commenters requested that CPSC wait to finalize the rule to include the next version of the voluntary standard, which would include two open ASTM ballot items, including a new booster seat design that attaches to an adult chair by hooking over the top back of the chair. Two commenters stated that booster seats manufactured for food-service establishments should be exempt from the mandatory standard, or be subject to a different standard. Below we summarize and respond to each significant issue raised by the commenters.

Comment 1: Two commenters stated that the Commission should not issue a final rule until ASTM approves the next version of ASTM F2640. The commenters stated that the 2018 version would clarify the intent of the maximum booster seat dimension test and would address the new hook on booster seat design.

Response 1: The Commission agrees with these commenters. The final rule incorporates by reference the latest version of the voluntary standard, ASTM F2640–18.

Comment 2: Two manufacturer commenters contended that food-service booster seats should not be covered under ASTM F2640, with one commenter proposing that a separate commercial standard be developed. These commenters stated that food-service booster seats have simple designs intended solely to be positioned easily alongside a dining table, and raised to a height for a child to eat. Commenters noted several elements that make food-service booster seats different from home-use booster seats, including: (1) Less-confined designs to accommodate bulky outerwear; (2) generally smaller size; (3) tray-less; (4) not adjustable (no swiveling or reclining); and (5) typically use attachment methods like anti-skid pads or raised rubber feet that can accommodate restaurant seating, such as booths and benches, which belts and straps cannot.

One manufacturer-commenter noted that the level of supervision over children in restaurants is greater than in homes, where children may be left unattended while eating. The commenter stated that this makes food-service booster seat designs, which are completely appropriate for restaurant use, potentially risky in home settings. Rather than addressing this under the current regulation, however, the commenter suggested a separate regulation for food-service booster seats that focuses on elements that ensure proper use, such as more stringent warnings and instructional literature (in particular not using food-service booster seats outside of commercial settings, and not leaving children unsupervised during use), as well as educating end users and wait staff.

Consumer advocate-commenters agreed with the NPR that food-service booster seats should be included under the mandatory standard because these products are available for sale to consumers and consumers use the products in restaurants, and these products should provide the same measure of safety.

Response 2: The Commission recognized in the NPR that food-service booster seats vary in design and where they will be used, and that the attachment requirement in ASTM F2640 may require a design change for some food-service booster seats. Accordingly, the NPR invited commenters to provide information on the effects of making ASTM F2640–17$^{\varepsilon 1}$'s attachment requirements mandatory on booster seats that currently use grip feet/friction bottoms to secure the booster to the surface upon which it sits. Additionally, the NPR solicited comments regarding the capability of suction cups to comply with performance requirements.

Although the Commission agrees that some differences exist between food-service booster seats and booster seats intended for home-use, the commenters did not provide sufficient, specific information to support the assertion that food-service booster seats should not be covered under ASTM F2640; nor did they provide cost estimates for varying designs, other than generally stating that the process of compliance would be costly and time intensive. Accordingly, despite CPSC staff's interviews with affected parties, and after careful review of the comments, the Commission has not identified any inherent differences between the two products that would prevent food-service booster seats from meeting the mandatory standard and remaining fundamentally the same product. For example, although no food-service booster seats have trays, trays are not required to meet the booster seat final rule. If a booster seat does not have a tray, the requirements, tests, warnings, and instructions related to trays are not required. As another example, although it is true that anti-skid pads and raised rubber feet would not be considered attachment methods under the mandatory standard, they may still be used *in addition to* an attachment method like a belt, strap, or suction cup. Food-service booster seats can likely meet the new standard by adding a belt, for example, while retaining the anti-slip mechanism they were using already.

Section 6.5 of ASTM F2640 (2017$^{\varepsilon 1}$ and 2018 versions) requires a mechanism of attaching a booster seat to an adult chair, but it does not require the attachment mechanism to be a strap. Although a strap attachment would not work on a bench or booth, non-strap attachment methods, such as suction cups, could be used to secure a booster to a bench. Additionally, ASTM F2640 does not state any specific requirements for booster seats used on a booth or bench-type seating. Under the standard, booster seats are tested on an adult chair. The standard requires the attachment method to withstand force requirements. Although ''grip feet'' or ''friction bottoms'' are not a sufficient means of fastening a booster seat to an adult chair, some suction cups can be sufficient to withstand the force required in the standard.

Based on the foregoing, the Commission rejects the assertion that food-service booster seats should solely rely on warnings to prevent falls in food-service booster seats. In a food-service environment, booster seats are used on adult chairs and bench-style

seating. Adhering to the mandatory standard for booster seats will ensure that food-service booster seats remain attached to adult chairs under the testing protocol, but not impede using grip feet on bench seating, if that is how manufacturers choose to address this issue. Additionally, nothing in the final rule would prevent food-service booster seat suppliers from providing additional warnings and instructions, if they believe such information will improve the safety their products.

Section 104 of the CPSIA requires the Commission to promulgate a booster seat standard that is either ''substantially the same as'' the voluntary standard or ''more stringent than'' the voluntary standard if the more stringent requirements would further reduce the risk of injury associated with the product. Accordingly, CPSC's mandatory standard could only provide requirements for food-service booster seats that differ from the ASTM standard, if those different requirements strengthen the standard and further reduce the risk of injury. The commenters have not provided any safety rationale for excluding food-service booster seats from the final rule. None of the suggestions presented by commenters would result in a standard that is ''more stringent than'' the voluntary standard. Therefore, the Commission is not modifying the booster seat requirements for food-service booster seats as part of the mandatory standard. However, as explained below, in response to Comment 6, the final rule provides additional time to comply with the new standard.

Comment 3: One commenter stated that to comply with the standard, booster seats using suction as a means of attachment should be required to pass the attachment test in ASTM F2640–17$^{\varepsilon 1}$.

Response 3: The Commission agrees that regardless of the means of attachment, all booster seats must meet the requirements in section 6.5 of the current voluntary standard, ASTM F2640–18. These requirements include: Not allowing the booster seat to fall off the adult chair and break, and remaining functional after applying a 45-pound force horizontally to the center of the front of the booster seat five times. The requirements do not prescribe how the seat should be attached to the adult chair.

Comment 4: One commenter questioned the applicability of placing warning labels on commercial booster seats because of size constraints on restaurant style-booster seats. The commenter indicated that the distance from the seat surface to the top of the side walls of the seat range from 3 inches to 5 inches, which restricts the space for labeling, and requests conspicuous labeling to include the seat surface.

Response 4: The most recent version of the voluntary standard applicable to booster seats, ASTM F2640–18, requires the warning label to be conspicuous. A ''conspicuous label'' is defined in the standard as a ''label which is visible, when the product is in the manufacturer's recommended use position, to a person standing at the sides or front of the booster seat'' (ASTM F2640–18, section 3.1.1). Accordingly, the definition of ''conspicuous'' in the standard does not preclude use of the seat surface for the warning label placement, because the seat surface is visible to a person standing at the sides or front of the booster seat.

Additionally, to address comments that a side wall height range of 3 inches to 5 inches would restrict warning placement, staff generated mock warning labels that meet the ASTM F2640–18 requirement for signal word and font size in section 8.4.5. Tab B of Staff's Final Rule Briefing Package provides pictures of these mock warning labels. Staff's mock-ups show that the label can be placed on products with limited side wall space. Accordingly, manufacturers have the flexibility to place the warning label on seat surface or on the seat vertical wall.

Comment 5: One commenter urged CPSC to work with manufacturers to use design and visual cues, such as pictograms, to ensure warnings are conveyed effectively to those with limited or no English literacy.

Response 5: The Commission acknowledges that well-designed graphics, such as pictograms, can be useful for consumers with limited or no English literacy. However, the design of effective graphics can be difficult. Some seemingly obvious graphics are poorly understood and can give rise to interpretations that are the opposite of the intended meaning (so-called ''critical confusions''). To avoid confusion, a warning pictogram should be developed with an empirical study and should also be well-tested on the target audience. Thus far, pictograms have not been developed for booster-seat warning labels. In the future, if CPSC staff advises that graphic symbols are needed to reduce the risk of injury associated with these products, the Commission can consider updating the mandatory standard to include pictograms.

Comment 6: The Commission received four comments on CPSC's proposed 12-month effective date for the booster seats mandatory standard. One comment, submitted by three consumer advocacy groups, supported a 6-month effective date (which they seem to believe mistakenly was the Commission's proposal). Two commenters, a juvenile product manufacturers' association and a private citizen, supported the proposed 12-month effective date, although the private citizen said that they would also support an even longer effective date to reduce the economic impact on small firms. A fourth commenter, a small manufacturer of food-service booster seats, suggested a 2-year effective date to allow additional time for product development. The commenter stated: ''compliance may require the costly and time intensive process of developing and building new tooling to comply with the Standard.''

In a follow-up call with Commission staff (a phone log is in *regulations.gov*), the fourth commenter elaborated on the request for a 2-year effective date, stating that for their booster seats to come into compliance with the revised ASTM standard, they will need to design and test new plastic molds. Creating a new mold includes researching and developing a new design, initial tool-building to implement the design, and then testing the resulting product. The commenter stated that the entire process takes longer for firms like theirs because their mold-maker is located overseas. Consequently, if changes to the mold are required after testing the new product, the turnaround time is longer than if all the work were conducted in the United States. According to the commenter, if the design process goes perfectly, with no required changes, then their booster seats could be redesigned in time to meet the 12-month effective date. The commenter stated that the request for a 2-year effective date was based on the design process for plastic molds and the potential need to create and test several iterative designs.

Response 6: The Commission recognizes that longer effective dates minimize the impact on affected firms. The initial regulatory flexibility analysis (IRFA) found that a significant economic impact could not be ruled out for 69 percent of the small firms operating in the U.S. market. Staff advised that many of those firms might not be aware of the ASTM voluntary standard or the CPSC booster seats rulemaking, particularly food-service booster seat suppliers, which make up one-third of the small suppliers for

which a significant impact could not be ruled out. The information supplied by the fourth commenter on the time and cost involved in designing and producing new plastic molds is consistent with information supplied by CPSC engineers, as is the longer time frame required for firms conducting some of their redesign overseas. Staff engineers have also indicated that foam products would require new molds as well, which likely require similar cost and time investments.

Based on this information, the Commission concludes that a 12-month effective date likely represents a ''best-case'' scenario for many affected firms, and that 2 years likely represents a ''worst-case'' scenario for firms required to come into compliance. Firms designing and/or testing their molds in the United States should be able to meet shorter timelines, both in ''best-case'' and ''worst-case'' scenarios. After considering the information provided by commenters, the Commission is providing an 18-month effective date for all firms to come into compliance with the final rule. An 18-month effective date balances the need for improved consumer safety, with reducing the impact of the final rule on small firms.

Although some firms using molds may require iterative designs to meet the standard, the 2-year time estimate for product redesign using molds applies in cases where a mold must be modified several times, and the mold-redesign work is conducted overseas. Not all firms use molds, not all firms have molds made overseas, and not all firms will encounter sufficient difficulty with their molds to require a full 2 years to make their iterative changes. Additionally, not all products will require a full redesign. Some products already meet the ASTM voluntary standard and the anticipated product modifications (straps and/or more secure means of attachment) in those cases are not complex and should not fall within the ''worst-case'' scenario of a 2-year design process.

Moreover, providing additional time for firms to come into compliance reduces burden by allowing firms the time: (1) To spread out design and testing costs over a longer period; (2) to come into compliance if they are currently unaware of the voluntary standard or the rulemaking; and (3) to redesign a plastic or foam product to accommodate the design, tooling, and testing adjustments that may be required during the product redesign process.

VI. Mandatory Standard for Booster Seats

As discussed in the previous section, the Commission concludes that ASTM F2640–18 adequately addresses the hazards associated with booster seats. Thus, the final rule incorporates by reference ASTM F2640–18, without modification, as the mandatory safety standard for booster seats.

VII. Amendment to 16 CFR Part 1112 to Include NOR for Booster Seats Standard

The CPSA establishes certain requirements for product certification and testing. Products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Certification of children's products subject to a children's product safety rule must be based on testing conducted by a CPSC-accepted third party conformity assessment body. 15 U.S.C. 2063(a)(2). The Commission must publish an NOR for the accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule to which a children's product is subject. 15 U.S.C. 2063(a)(3). The *Safety Standard for Booster Seats,* to be codified at 16 CFR part 1237, is a children's product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as part 1112). Part 1112 became effective on June 10, 2013 and establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule, in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the safety standard for booster seats, require the Commission to amend part 1112. Accordingly, the Commission is now amending part 1112 to include the safety standard for booster seats in the list of other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for booster seats are required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third-party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1237, *Safety Standard for Booster Seats,* included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: *www.cpsc.gov/labsearch.*

VIII. Incorporation by Reference

Section 1237.2 of the final rule provides that booster seats must comply with applicable sections of ASTM F2640–18. The OFR has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble to the rule the way in which materials that the agency incorporates by reference are reasonably available to interested persons, and how interested parties can obtain the materials. Additionally, the preamble to the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in section IV of this preamble summarizes the required provisions of ASTM F2640–18. Interested persons may purchase a copy of ASTM F2640–18 from ASTM, either through ASTM's website, or by mail at the address provided in the rule. A copy of the standard may also be inspected at the CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission. Note that the Commission and ASTM arranged for commenters to have ''read-only'' access to ASTM F2640–17$^{\varepsilon 1}$ during the NPR's comment period.

IX. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). Typically, the Commission provides a 6-month effective date for final rules issued for durable infant or toddler products under section 104 of the CPSIA. However, in the NPR, the Commission proposed that the booster seat rule be effective 12 months after publication of the final rule in the **Federal Register**, to allow booster seat manufacturers additional time to bring their products into compliance.

CPSC received several comments on the effective date of the final rule, which are summarized in section V of this preamble, comment 6. As explained there, the remolding process for plastic and foam booster seats could take in ''best-case scenarios'' 12 months, but in

''worst-case scenarios'' the process could take up to 2 years. Recognizing that worst-case scenarios are likely to be rare, the Commission is providing an 18-month effective date for the final rule. Moreover, as explained in the next section of the preamble, the additional time reduces the impact of the rule on small businesses.

X. Regulatory Flexibility Act [9]

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that agencies review a proposed rule and a final rule for the rule's potential economic impact on small entities, including small businesses. Section 604 of the RFA generally requires that agencies prepare a final regulatory flexibility analysis (FRFA) when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For booster seats, staff cannot rule out a significant economic impact for 19 of the 29 (66 percent) known small domestic suppliers of booster seats to the U.S. market. Accordingly, staff prepared a FRFA that is available at Tab D of the Staff's Final Rule Briefing Package. We provide a summary of the FRFA below.

The Commission is aware of 29 small firms, including 19 domestic manufacturers, nine domestic importers, and one firm of unknown type, currently marketing booster seats in the United States. The Commission concludes that it is unlikely that there would be a significant economic impact on the eight small manufacturers and two small importers of booster seats that comply with the current voluntary standard for Juvenile Products Manufacturer's Association-(JPMA) testing purposes, ASTM F2640–17$^{\varepsilon 1}$.[10] However, the Commission cannot rule out a significant economic impact for 19 of the suppliers of noncompliant booster seats (11 manufacturers, seven importers, and one unknown type).

A. The Product

Section II.A of this preamble defines ''booster seats'' and discussed booster seat combination products. The final rule would cover these products when they are in their booster seat configuration. Some suppliers produce booster seats intended predominately for restaurant use. As discussed in sections II.A and V (comment 2), the Commission will include food-service booster seats in the final rule with the same requirements as home-use booster seats. The prices for food-service and home-use booster seats are similar, averaging $44 to $60. Not surprisingly, combination high chair/booster seat products tend to be more expensive, ranging in price from $50 to $250.

B. Final Rule Requirements and Third Party Testing

All booster seats manufactured after the final rule's effective date must meet the requirements of the final rule (ASTM F2640–18 with no modification). They will also need to be third party tested, as described below.

Under section 14 of the CPSA, once the new booster seat requirements become effective as a consumer product safety standard, all suppliers will be subject to the third party testing and certification requirements under the CPSA and the Testing and Labeling Pertaining to Product Certification rule (16 CFR part 1107) (1107 rule), which require manufacturers and importers to certify that their products comply with the applicable children's product safety standards, based on third party testing, and subject their products to third party testing periodically. Third party testing costs are in addition to the costs of modifying the booster seats to meet the standard. For booster seats, the third party testing costs are expected to be $500 to $1,000 per sample tested, with the higher cost being more applicable to the smallest suppliers.[11] As the component part testing rule allows (16 CFR part 1109), importers may rely upon third party tests obtained by their suppliers, which could reduce the impact on importers. The incremental costs would also be lower for suppliers of compliant booster seats if they are already obtaining third party tests to assure conformance with the voluntary standard.

C. IRFA Issues Raised in the Public Comments

The IRFA requested public feedback on three questions:

1. What actions might firms take to bring their booster seats into compliance with the proposed rule? What costs might be associated with those actions?

2. What are the differences between food-service and home-use booster seats and their typical use environments (restaurants and homes)? How might the safety risks vary between the two use environments? Are there any alternative requirements that might address these risk variations and make booster seats safer in *both* use environments?

3. What is the appropriate effective date for the proposed rule?

CPSC did not receive public comment in response to question one. CPSC did receive comments on questions 2 and 3. Comment summaries and the Commission's responses appear in section V of this preamble.

D. The Market for Booster Seats

The market for booster seats was outlined in section II.B. Under U.S. Small Business Administration (SBA) guidelines, a manufacturer of booster seats is considered small if it has 500 or fewer employees; and importers are considered small if they have 100 or fewer employees. CPSC limited its regulatory flexibility analysis to domestic firms because SBA guidelines and definitions pertain to U.S.-based entities. Based on these guidelines, 29 of 44 domestic firms are small—19 domestic manufacturers, 9 domestic importers, and 1 domestic firm whose supply source could not be categorized. Additional small domestic booster seat suppliers may be operating in the U.S. market, possibly including some of the firms operating online storefronts. As discussed in the FRFA, staff expects impacts of the final rule to be small for online suppliers that staff could not readily identify as domestic; therefore, they are not included in the analysis.

E. Impact on Small Businesses

1. Small Manufacturers

a. Small Manufacturers With Compliant Booster Seats

Of the 19 small manufacturers, eight produce booster seats that comply with the ASTM voluntary standard currently in effect for testing purposes (ASTM F2640–17$^{\varepsilon 1}$).[12] [13] ASTM F2640–

[9] Tab D of Staff's Final Rule Briefing Package contains the complete Final Regulatory Flexibility Analysis for this final rule.

[10] The Juvenile Products Manufacturers Association (JPMA) has certification programs for several durable infant products with voluntary ASTM standards. Typically, JPMA's certification program has a 6-month delay between the publication of a new ASTM voluntary standard and its adoption for compliance testing under their program. Published in March 2017, ASTM F2640–17$^{\varepsilon 1}$ went into effect for JPMA-testing purposes in September 2017.

[11] These cost estimates are for testing compliance with the physical or mechanical requirements in the standard only. Manufacturers and importers of booster seats are already subject to third party testing requirements with respect to lead content.

[12] The Juvenile Products Manufacturers Association (JPMA) has certification programs for several durable infant products with voluntary ASTM standards. Typically, JPMA's certification program has a 6-month delay between publication of a new ASTM voluntary standard and its adoption for compliance testing under their program. Published in March 2017, ASTM F2640–17$^{\varepsilon 1}$ went into effect, for JPMA testing purposes, in September 2017. ASTM F2640–18 will be in effect for JPMA testing before the mandatory booster seat standard goes into effect. Therefore, compliant firms are expected to remain compliant.

[13] In this case, four of the firms with compliant booster seats are part of JPMA's certification program, while the other four firms claim

18, the version of the voluntary standard upon which the final rule is based, for JPMA certification testing purposes, will be in effect in November 2018. The new version of the standard (ASTM F2640–18) addresses booster seats that hang from the back of the adult chair and ensures that the maximum booster seat dimensions test is performed while in the manufacturer's recommended installation configuration. In general, the Commission expects that small manufacturers whose booster seats already comply with the voluntary standard currently in effect for testing purposes will remain compliant with the voluntary standard as it evolves, because they follow, and in five cases, actively participate in, the development of the ASTM voluntary standard. Therefore, for these small manufacturers, compliance with the voluntary standard is part of an established business practice. As such, the Commission does not expect the final rule to have a significant impact on any of the eight small manufacturers with booster seats expected to meet the requirements of the voluntary standard. Additionally, because these firms already test to the ASTM standard, the Commission expects that any third party testing costs will be minimal.

b. Small Manufacturers With Noncompliant Booster Seats

Eleven small manufacturers produce booster seats that do not comply with the voluntary standard, five of which produce food-service booster seats, and six that produce booster seats for home use. CPSC staff cannot determine the extent of the changes and the cost of the changes required for the booster seats of these 11 firms to come into compliance with the final rule. For all 11 small manufacturing firms producing booster seats that do not meet the voluntary standard, the cost of redesigning the products could exceed 1 percent of the firm's revenue. Overall, staff cannot rule out a significant economic impact on any of the 11 small manufacturers producing noncompliant booster seats. Additionally, of 11 firms, staff estimates that the impact of third party testing could result in significant costs for six firms.

2. Small Importers

a. Small Importers With Compliant Booster Seats

Staff identified two booster seat importers currently in compliance with the voluntary standard. Staff expects that small importers, like manufacturers whose booster seats already comply with the voluntary standard currently in effect for testing purposes, will remain compliant with the voluntary standard as it evolves, because these small importers follow the standard development process. Therefore, these firms are likely already to be in compliance, and the final rule should not have a significant impact on either of the small importers with compliant booster seats. Any third party testing costs for importers of compliant booster seats would be limited to the incremental costs associated with third party testing beyond their current testing regime. Staff does not expect significant impacts to result from incremental testing costs.

b. Small Importers With Noncompliant Booster Seats

Staff does not have sufficient information to rule out a significant impact from the final rule for any of the seven importers with noncompliant booster seats. The economic impact on importers depends on the extent of the changes required to come into compliance and the responses of their supplying firms, which staff cannot generally determine for noncompliant importers. Third party testing and certification to the final rule could impose significant costs for three of the seven firms with booster seats believed not to comply with the ASTM standard. However, third party testing costs are unlikely to be greater than 1 percent of the firms' gross revenues for the remaining four firms.

3. Small Unknown Firm Type With Noncompliant Booster Seats

For one firm identified as a supplier of noncompliant booster seats in the U.S. market, staff is unable to determine whether the firm is a manufacturer or an importer, and thus, staff does not have sufficient information to rule out the possibility that modifications required to come into compliance with the rule could result in a significant impact (*i.e.,* greater than 1 percent of revenues) on this small noncompliant firm.

4. Summary of Impacts

The Commission is aware of 29 small firms, including 19 domestic manufacturers, nine domestic importers, and one firm of unknown type, currently marketing booster seats in the United States. Based on the foregoing, the Commission concludes that it is unlikely that there would be a significant economic impact on the eight small manufacturers and two small importers of compliant booster seats. However, the Commission cannot rule out a significant economic impact for any of the 19 suppliers of noncompliant booster seats (11 manufacturers, seven importers, and one unknown type).

F. Efforts To Minimize the Impact on Small Entities

The NPR proposed an effective date 12 months after the publication of the final rule in the **Federal Register**. CPSC received two comments requesting a later effective date, including one from a food-service booster seat manufacturer who requested a 2-year effective date, stating they needed more time to develop and build the new tooling that would be required to meet the mandatory standard. As discussed in sections V (comment 6) and IX of this preamble, the Commission agrees that a later effective date would reduce the economic impact of the final rule on firms. Firms would have more time to adjust their designs and tooling and thus, less likely to experience a lapse in production/importation, which could result if they were unable to produce or locate suppliers within the required timeframe. Additionally, firms could spread these costs of compliance over a longer time period, thereby reducing their annual costs, as well as the present value of their total costs. To help reduce the impact on all small firms, as well as specifically reduce the potential burden on firms using molds that may require iterative designs to meet the standard, particularly where some work is conducted overseas, the final rule provides an 18-month effective date.

G. Small Business Impacts of the Accreditation Requirements for Testing Laboratories

In accordance with section 14 of the CPSA, all children's products that are subject to a children's product safety rule must be tested by a CPSC-accepted third party conformity assessment body (*i.e.,* testing laboratory) for compliance with applicable children's product safety rules. Testing laboratories that want to conduct this testing must meet the notice of requirements (NOR) pertaining to third party conformity testing. NORs have been codified for existing rules at 16 CFR part 1112 (1112 rule). Consequently, the Commission will amend the 1112 rule to establish the NOR for testing laboratories that want accreditation to test for compliance with the booster seats final rule. This section assesses the impact of the amendment on small laboratories.

The Commission certified in the NPR that the proposed NOR would not have

compliance based on testing performed to the ASTM standard performed outside of the JPMA certification program.

a significant impact on a substantial number of small laboratories because:

- No requirements were imposed on laboratories that did not intend to provide third party testing services;
- Only firms that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements would provide testing services; and
- Most of these laboratories will already be accredited to test for conformance to other juvenile product standards, and the only costs to them would be the cost of adding the children's booster seats standard to their scope of accreditation.

No substantive changes in these facts have occurred since the NPR was published, and CPSC did not receive any comments regarding the NOR. Therefore, for the final rule, the Commission continues to certify that amending part 1112 to include the NOR for the booster seats final rule will not have a significant impact on a substantial number of small laboratories.

XI. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions normally have ''little or no potential for affecting the human environment,'' and therefore, they do not require an environmental assessment or an environmental impact statement. Safety standards providing requirements for products come under this categorical exclusion. 16 CFR 1021.5(c)(1). The final rule for booster seats falls within the categorical exclusion.

XII. Paperwork Reduction Act

The final rule for booster seats contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The preamble to the proposed rule (82 FR 22932–33) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. OMB has not yet assigned a control number for this information collection. We did not receive any comment regarding the information collection burden of the proposal. However, the final rule makes modifications regarding the information collection burden because the number of estimated manufacturers subject to the information collection burden is now estimated at 46 manufacturers, rather than the 49 manufacturers initially estimated in the proposed rule, and the number of models tested has increased from two models in the NPR, to three models for the final rule.

Accordingly, the estimated burden of this collection of information is modified as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden Hours
1237	46	3	138	1	138

Our estimate is based on the following:

Section 8.1 of ASTM F640–18 requires that all booster seats and their retail packaging be permanently marked or labeled as follows: The manufacturer, distributor, or seller name, place of business (city, state, mailing address, including zip code), and telephone number; and a code mark or other means that identifies the date (month and year as a minimum) of manufacture.

CPSC is aware of 46 firms that supply booster seats in the U.S. market. For PRA purposes, we assume that all 46 firms use labels on their products and on their packaging already. All firms will need to make some modifications to their existing labels. We estimate that the time required to make these modifications is about 1 hour per model. Each of the 46 firms supplies, on average, test slightly more than 2.5 different models of booster seats per year. Accordingly, for this estimate we round the number of models to three. Therefore, we estimate the burden hours associated with labels to be 138 hours annually (1 hour × 46 firms × 3 models per firm = 138 hours annually).

We estimate the hourly compensation for the time required to create and update labels is $32.47 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2017, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, we estimate the annual cost to industry associated with the labeling requirements in the final rule to be approximately $4,481 ($32.47 per hour × 138 hours = $4,480.86). This collection of information does not require operating, maintenance, or capital costs.

Section 9.1 of ASTM F2640–18 requires instructions to be supplied with the product. Under the OMB's regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the ''normal course of their activities'' are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are ''usual and customary.'' We are unaware of booster seats that generally require use instructions but lack such instructions. Therefore, we estimate that no burden hours are associated with section 9.1 of ASTM F2640–18, because any burden associated with supplying instructions with booster seats would be ''usual and customary'' and not within the definition of ''burden'' under the OMB's regulations.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this final rule to the OMB.

XIII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules.'' Therefore, the preemption provision of section 26(a) of the CPSA applies to this final rule issued under section 104.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1237

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR parts 1112 and 1237 as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

■ 2. Amend § 1112.15 by adding paragraph (b)(47) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * *

(b) * * *

(47) 16 CFR part 1237, Safety Standard for Booster Seats.

* * * * *

■ 3. Add part 1237 to read as follows:

PART 1237—SAFETY STANDARD FOR BOOSTER SEATS

Sec.

1237.1 Scope.

1237.2 Requirements for booster seats.

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (August 14, 2008); Sec. 3, Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

§ 1237.1 Scope.

This part establishes a consumer product safety standard for booster seats.

§ 1237.2 Requirements for booster seats.

Each booster seat must comply with all applicable provisions of ASTM F2640–18, Standard Consumer Safety Specification for Booster Seats (approved on April 1, 2018). The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone: 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–14133 Filed 6–29–18; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2013–0044]

RIN 0960–AH63

Rules of Conduct and Standards of Responsibility for Appointed Representatives

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our rules of conduct and standards of responsibility for representatives. We are also updating and clarifying the procedures we use when we bring charges against a representative for violating these rules and standards. These changes are necessary to better protect the integrity of our administrative process and to further clarify representatives' existing responsibilities in their conduct with us. The revisions should not be interpreted to suggest that any specific conduct was permissible under our rules prior to these changes; instead, we seek to ensure that our rules of conduct and standards of responsibility are clearer as a whole and directly address a broader range of inappropriate conduct.

DATES: These final rules will be effective August 1, 2018.

FOR FURTHER INFORMATION CONTACT: Sarah Taheri, Office of Appellate Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 605–7100. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Although the vast majority of representatives conducting business before us on behalf of Social Security beneficiaries and claimants ethically and conscientiously assist their clients, we are concerned that some representatives are using our processes in a way that undermines the integrity of our programs and harms claimants. Accordingly, we are clarifying that certain actions are prohibited, and we are providing additional means to address representative actions that do not serve the best interests of claimants.

On August 16, 2016,[1] we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in which we proposed clarifications and revisions to our rules of conduct for representatives. To the extent that we adopt a proposed change as final without revision, and we already discussed at length the reason for and details of the proposal, we will not repeat that information here.

In response to the NPRM, we received 154 timely submitted comments that addressed issues within the scope of our proposed rules. Based on those comments, we are modifying some of our proposed changes to address concerns that commenters raised. We have also made editorial changes consistent with plain language writing requirements. We made conforming changes in other sections not originally edited in the NPRM. Finally, we made changes to ensure correct paragraph punctuation in §§ 404.1740 and 416.1540; a nomenclature change to reflect the organization of our agency in §§ 404.1765(b)(1) and 416.1565(b)(1); and updated a cross-reference in §§ 404.1755 and 416.1555 that refers to §§ 404.1745 and 416.1545, sections reorganized and rewritten in the NPRM and codified in the final rule.

Public Comments and Discussion

Comment: Some commenters suggested that our proposed rules would deter potential representatives from representing claimants in Social Security matters.

Response: These rules reflect our interest in protecting claimants and ensuring the integrity of our administrative process, and they do not impose unreasonable standards of conduct. These additional rules of conduct should not deter competent, knowledgeable, and principled representatives.

Comment: Some commenters objected to the provision in proposed § 404.1705(b)(4) and 416.1505(b)(4), which includes ''persons convicted of a

[1] 81 FR 54520. *https://www.federalregister.gov/documents/2016/08/16/2016-19384/revisions-to-rules-of-conduct-and-standards-of-responsibility-for-appointed-representatives.*

felony (as defined by § 404.1506(c)), or any crime involving moral turpitude, dishonesty, false statements, misrepresentation, deceit, or theft'' as examples of persons who lack ''good character and reputation.'' The commenters sometimes referred to this provision as involving a ''lifetime ban'' on representation. Commenters noted that a ''lifetime ban'' fails to consider multiple situations, such as overturned convictions. Some commenters suggested that we place the ban only on representatives with prior felony convictions but exempt those with past misdemeanor convictions, because claimants may have family members with misdemeanor convictions who are otherwise well-qualified to be representatives. Commenters opined that there is nothing inherent about a felony conviction that would prohibit a person from providing competent representation. Finally, commenters suggested that this proposed regulation would decrease the pool of representatives, particularly for minorities, because, according to these commenters, some statistics show higher conviction rates in minority populations.

Response: We have broad rulemaking authority to decide who can serve as a non-attorney representative. We believe we can achieve our goal of protecting claimants from potentially fraudulent representatives by limiting the prohibition to individuals convicted of certain offenses that are more severe in nature or involve behavior that reflects poorly on an individual's ability to represent claimants. There is no evidence that this approach will decrease the pool of available, high quality representatives for any particular population. Accordingly, we determined that individuals are not qualified to practice before us if they have a felony conviction (as defined in our rules) or a conviction involving moral turpitude, dishonesty, false statements, misrepresentation, deceit, or theft. These criminal convictions reflect crimes that, by their nature, are more serious based on their categorization as felonies, or involve behavior that reflects poorly on an individual's honesty and moral judgment and, therefore, also reflects poorly on the individual's ability to represent claimants. This disqualification would not apply to convictions that have been overturned or other similar situations, which we have clarified in the final rules. The regulation does not specifically bar individuals with misdemeanor convictions from serving as representatives, unless the misdemeanor involved moral turpitude, dishonesty, false statements, misrepresentation, deceit, or theft, which are the misdemeanors that we believe reflect a lack of honesty and moral judgment, characteristics that we consider necessary in representatives. Further, even if individuals are unable to serve as appointed representatives due to these rules, they may still assist their family members with claims in an unofficial capacity.

Comment: Some commenters stated that claimants should be held harmless if they appoint a representative whom they later learn was not qualified (proposed §§ 404.1705(b)(4) and 416.1505(b)(4)).

Response: These rules do not suggest that we would impose any penalty on a claimant who appoints or attempts to appoint an unqualified representative. This regulatory section only identifies whom we will recognize as a representative.

Comment: Some commenters stated that proposed §§ 404.1740(b)(3)(iii) and 416.1540(b)(3)(iii) should clarify that a list of potential dates and times that a representative will be available for a hearing is only required to be accurate at the time it is submitted. The comments explained that many representatives schedule hearings in multiple locations, and availability may change once they have other obligations scheduled.

Response: We understand that schedules change, and we do not expect representatives to hold open their schedules for all of the dates and times that they identify. We did not change the proposed regulatory text.

Comment: Commenters stated that the term ''scheduled'' is too vague (proposed §§ 404.1740(b)(3)(iv) and 416.1540(b)(3)(iv)).

Response: A hearing has been ''scheduled'' when a date and time have been set and we have notified all parties. We clarified the language in these sections.

Comment: Some commenters asserted that restricting a representative's right to withdraw after a hearing is scheduled, except under ''extraordinary circumstances,'' is an overly broad restriction that inhibits a representative's right to withdraw in circumstances where the representative knows that the client no longer has a viable case. Many commenters also argued that forcing representatives to divulge their reasons for withdrawal to justify extraordinary circumstances may violate the attorney-client privilege, if the withdrawal is based on the representative's knowledge that a client may be engaging in fraud. Other commenters stated that if a claimant does not want to attend a hearing but will not release the representative, and the representative cannot withdraw, the administrative law judge (ALJ) will not be able to dismiss the case and will have to hold a hearing, which wastes administrative time and resources. Finally, commenters noted that hearings are sometimes already scheduled by the time representatives are hired. Because representatives cannot view claimants' files until they are appointed, representatives may have to withdraw after reviewing the file even though a hearing has already been scheduled.

Response: The American Bar Association (ABA) Model Rules of Professional Conduct Rule (Model Rule) 1.16 includes requirements for withdrawal similar to this regulation. Some examples of ''extraordinary circumstances'' under which we may allow a withdrawal include (1) serious illness; (2) death or serious illness in the representative's immediate family; or (3) failure to locate a claimant despite active and diligent attempts to contact the claimant.

We are not seeking privileged communications between an attorney and client. If the representative cannot describe why he or she must withdraw without revealing privileged or confidential communications (and if no exceptions to the attorney-client privilege exist, such as the crime-fraud exception), the representative should state this fact, not disclose the privileged or confidential communication, and allow the ALJ to evaluate the request under these circumstances.

Comment: Commenters raised the issue of providing ''prompt and timely communication'' with claimants, stating that this is often difficult with homeless or indigent claimants (proposed §§ 404.1740(b)(3)(v) and 416.1540(b)(3)(v)). Some commenters suggested changing this language to ''keep the client reasonably informed of the status of the case'' in accordance with Model Rule 1.4. One commenter requested that we define ''incompetent representation'' and ''reasonable and adequate representation.''

Response: Representatives are responsible for maintaining timely contact with their clients. We expect representatives to have working contact information for all of their clients, but we recognize that it may be difficult to locate homeless or indigent clients in some circumstances. We have changed the language of §§ 404.1740(b)(3)(v) and 416.1540(b)(3)(v) to take into account the difficulty in locating certain claimants despite a representative's best

efforts. We did not provide any definition of ''incompetent representation'' or ''reasonable and adequate representation,'' because these terms do not appear in the rule.

Comment: A number of commenters were concerned with proposed §§ 404.1740(b)(5) and 416.1540(b)(5), which require a representative to disclose certain things in writing when the representative submits a medical or vocational opinion to us. The commenters specifically raised concerns about the disclosure of physician referrals and the disclosure requirement when the medical or vocational opinion was ''drafted, prepared, or issued'' by an employee of the representative or an individual contracting with the representative for services. Commenters also stated that the term ''prepared'' is vague, and it is unclear whether disclosure would be required if a representative discusses the sequential evaluation process with a provider of an opinion or supplies a questionnaire for a provider to complete. Some commenters further maintained that requiring disclosure of physician referrals would violate the attorney-client privilege and that such referrals are irrelevant to the representation of the case. Commenters also requested that the regulation clarify that opinions are entitled to the same weight regardless of whether the representative requested them. Finally, commenters argued that requiring disclosure will ''chill'' referrals for those claimants who need them most.

Response: When a representative submits a medical or vocational opinion to us, he or she has an affirmative duty to disclose to us in writing if the representative or one of the representative's employees or contractors participated in drafting, preparing, or issuing the opinion. For clarity, we consider providing guidance or providing a questionnaire, template or format to fall within the parameters of this rule when the guidance, questionnaire, template or format is used to draft a medical or vocational opinion submitted to us. In response to the concern that the term ''prepared'' is vague, unless the context indicates otherwise, we intend the ordinary meaning of words used in our regulations. We intend the word ''prepared'' here to have its ordinary meaning. Representatives also have an affirmative duty to disclose to us in writing if the representative referred or suggested that the claimant be examined, treated, or assisted by the individual who provided the opinion evidence. However, we are not seeking privileged or confidential communications concerning legal advice between an attorney and client, nor are we requiring disclosure of detailed communications. We are only requiring that representatives disclose the fact that they made a referral or participated in drafting, preparing, or issuing an opinion. *See* Fed. R. of Civ. P. 26(b)(5)(A) (''When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must . . . describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.'') We explain what we mean by the attorney-client and attorney work product privileges more fully in §§ 404.1513(b)(2) and 416.913(b)(2) of our rules. We will interpret the affirmative duty in final §§ 404.1740(b)(5) and 416.1540(b)(5) in light of our interpretation of those privileges in §§ 404.1513(b)(2) and 416.913(b)(2). In response to the request that the regulation clarify that opinions are entitled to the same weight regardless of whether the representative requested them, we have other regulations that govern how we evaluate medical opinion evidence. *See* 20 CFR 404.1520c, 404.1527, 416.920c, and 416.927.

Comment: Some commenters stated that notifying us if a claimant is committing fraud (proposed §§ 404.1740(b)(6) and 416.1540(b)(6)) violates the attorney-client privilege and Model Rule 1.6. Commenters also suggested a more direct adoption of the provisions of Model Rule 3.3, Candor Toward the Tribunal.

Response: We do not believe that our final rule violates either the attorney-client privilege or Model Rule 1.6. Our final rule requires a representative to ''[d]isclose to us immediately if the representative discovers that his or her services are or were used by the claimant to commit fraud against us.'' Model Rule 1.6(b)(2)[2] includes an exception to confidentiality ''to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services.'' Furthermore, the crime-fraud exception to the attorney-client privilege allows a lawyer to disclose otherwise privileged communications when they are in furtherance of a crime or fraudulent act. When a claimant uses a representative's services in furtherance of the claimant's fraud, there is a reasonable certainty that the fraud will cause substantial injury to the Social Security trust funds. Such fraud also undermines public confidence in our programs. Our proposed and final rules are fully consistent with the exception to confidentiality found in Model Rule 1.6(b)(2). The final rules also address the aim of Model Rule 3.3 to limit false or misleading statements, but within the unique context of the legal and procedural structure of the Social Security programs. Therefore, we are not changing the originally proposed language.

Comment: A few commenters asked us to clarify whether disbarment or disqualification will be an automatic bar to representation, or whether we will address each situation individually (proposed §§ 404.1740(b)(7)–(9) and 416.1540(b)(7)–(9)).

Response: We will address any disclosure made pursuant to §§ 404.1740(b)(7)–(9) and 416.1540(b)(7)–(9) on an individual basis.

Comment: Some commenters stated that proposed § 416.1540(b)(10) is too broad, because representatives often refer Supplemental Security Income (SSI) claimants to special needs trust attorneys, and the proposed language suggests that the representatives would be responsible for the conduct of the trust attorneys. Other commenters recommend that the regulation encompass only those people over whom representatives have supervisory authority.

Response: In response to these comments, we have revised the language in final §§ 404.1740(b)(10) and 416.1540(b)(10) to clarify that the affirmative duty applies ''when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work.'' Further, because this requirement is an affirmative duty, we moved language from proposed §§ 404.1740(c)(14) and 416.1540(c)(14) to §§ 404.1740(b)(10) and 416.1540(b)(10), which outlines the affirmative duty to take remedial action when: (i) The representative's employees, assistants, partners, contractors, or other individuals' conduct violates these rules of conduct

[2] Rule 1.6, Confidentiality of information. (2013). In American Bar Association, Center for Professional Responsibility, *Model Rules of Professional Conduct.* Retrieved from *https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_6_confidentiality_of_information.html.*

and standards of responsibility, and (ii) the representative has reason to believe a violation of these rules of conduct and standards of responsibility will occur. We revised the language of final §§ 404.1740(c)(14) and 415.1540(c)(14) to prohibit representatives from failing to oversee other individuals working on the claims on which the representative is appointed when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work.

Comment: Some commenters objected to proposed §§ 404.1740(c)(1) and 416.1540(c)(1), which prohibit ''misleading a claimant, or prospective claimant or beneficiary, about the representative's services and qualifications.'' Commenters asked whether it would be misleading if a claimant refers to a non-attorney representative as an attorney, and the representative does not correct them.

Response: Not correcting a known misconception about the representative's status as a non-attorney is ''misleading a claimant,'' as contemplated under this prohibition.

Comment: A few commenters objected to the language of proposed § 404.1740(c)(7)(ii)(B), which prohibits ''[p]roviding misleading information or misrepresenting facts . . . where the representative has or should have reason to believe the information was misleading and the facts would constitute a misrepresentation.'' These commenters stated that many claimants are mentally ill, and it is difficult to ascertain whether a client is providing accurate facts. The commenters also objected to the term ''should,'' stating that it is overly vague. A few commenters believe the standard ''knowingly'' should be added. Commenters also stated that this regulation conflicted with our rule on the submission of evidence, which requires representatives to submit all available evidence.

Response: Based on the comments, we have changed the ''has or should have reason to believe'' language of the proposed rule to ''knows or should have known'' in the final rule. Whether or not a claimant is mentally ill, a representative will violate the standard in the final rule if he or she presents information that he or she knows to be false or circumstances demonstrate that the representative should have known it to be false. This rule does not conflict with our rule requiring representatives to submit all evidence, because a false document is not evidence as contemplated under §§ 404.1513 and 416.913. Further, ''should'' is not an overly broad standard and is a commonly used term in Federal laws and regulations. *See, e.g.,* 42 U.S.C. 1320a–8a(a)(1).

Comment: A few commenters stated that proposed §§ 404.1740(c)(7)(ii)(C) and 416.1540(c)(7)(ii)(C) should clarify that representatives may contact SSA staff regarding matters such as case status, requests for critical case flags, Congressional inquiries, or when SSA staff ask the representative to contact them.

Response: We did not make any changes in response to these comments. The proposed and final rules specifically states that representatives should not communicate with agency staff ''outside the normal course of business or other prescribed procedures in an attempt to inappropriately influence the processing or outcome of a claim(s).'' Matters such as case status inquiries, requests for critical case flags, and Congressional inquiries are not outside the normal course of business, nor would they be attempts to inappropriately influence the processing or outcome of a claim.

Comment: Some commenters asked whether a representative would be guilty of misleading an ALJ if an ALJ finds that a claimant's statements are ''not fully credible.'' These commenters also recommend adding ''knowingly'' to proposed §§ 404.1740(c)(3) and 416.1540(c)(3). Other commenters stated that requiring representatives to disclose matters of which they do not have actual knowledge would ''chill'' advocacy.

Response: On March 16, 2016, we published Social Security Ruling (SSR) 16–3p, ''Titles II and XVI: Evaluation of Symptoms in Disability Claims'' in the **Federal Register**.[3] In this SSR, we eliminated the use of the term ''credibility'' from our sub-regulatory policy, because our regulations do not use this term. In doing so, we clarified that subjective symptom evaluation is not an examination of an individual's character. Instead, we will more closely follow our regulatory language regarding symptom evaluation. With respect to the commenters' concerns, the regulations include a number of factors that must be considered when evaluating symptoms, but a representative will not be found to be misleading an ALJ based solely on the results of this evaluation. Acknowledging the concern about the standard we will use in evaluating this type of situation, we are changing the ''has or should have reason to believe'' language in the proposed rule to ''knows or should have known'' in the final rule. This provision addresses only situations where the representative knows or should have known that specific statements, evidence, assertions, or representations are false or misleading.

Comment: Commenters objected to the 14-day limit to respond to charges and proposed that the 30-day limit in the current rules should be maintained (proposed §§ 404.1750 and 416.1550).

Response: We did not adopt this suggestion, because we believe that 14 days allows for a more timely resolution of misconduct matters. The 14-day timeframe provides the representative with sufficient time to respond to charges, which typically consists only of affirming or denying various factual allegations. However, in response to the commenters' concerns that the proposed rule did not give representatives adequate time to respond to the charges, we added the term ''business'' to clarify that the time limit is 14 business days.

Comment: One commenter suggested that representatives be suspended from representing clients until the sanction process is complete.

Response: The Social Security Act requires that we give a representative notice and opportunity for a hearing before we suspend or disqualify him or her from practicing before us. We have long allowed representatives to continue to practice before us until there is a final decision on the case. We will continue to impose sanctions only after the administrative sanctions process is completed.

Comment: Some commenters suggested that a representative should not have to show good cause for objecting to the manner of hearing (proposed §§ 404.1765(d) and 416.1565(d)). One commenter stated that a hearing should always be in person unless a party can demonstrate that there is no genuine dispute as to any material fact.

Response: The hearing officer is in the best position to decide how to conduct a particular hearing in the most effective and efficient manner. A ''good cause'' standard for objecting to the manner of the hearing ensures that any objection to this issue is well-founded.

Comment: A few commenters stated that 14 days is insufficient time to request review of a hearing officer's decision (proposed §§ 404.1775 and 416.1575). The commenters requested that the rule clarify whether it refers to business or calendar days.

[3] 81 FR 14166 (March 16, 2016). *https://www.federalregister.gov/documents/2016/03/16/2016-05916/social-security-ruling-16-3p-titles-ii-and-xvi-evaluation-of-symptoms-in-disability-claims.* Corrected at 81 FR 15776 (March 24, 2016). *https://www.federalregister.gov/documents/2016/03/24/2016-06598/social-security-ruling-16-3p-titles-ii-and-xvi-evaluation-of-symptoms-in-disability-claims.*

Response: In response to these and other related comments, we adopted this suggestion and added the word ''business'' to clarify that the 14-day period means 14 business days.

Comment: Some commenters stated that proposed §§ 404.1785 and 416.1585 shift the burden from the Appeals Council to representatives to obtain evidence. They stated that by changing the language from the Appeals Council ''shall require that the evidence be obtained'' to ''the Appeals Council will allow the party with the information to submit the additional evidence,'' the regulation relieves the Appeals Council of the responsibility for obtaining evidence and allows the Appeals Council to ignore evidence submitted by another party.

Response: We changed the language in §§ 404.1785 and 416.1585 for clarity. In the adversarial proceedings to sanction representatives, the obligation to provide evidence to the Appeals Council is, and has always been, on the party with the information. Accordingly, we are not changing the language proposed in the NPRM.

Comment: Some commenters asked that we clarify which decisions we will publish and when we will publish them (proposed §§ 404.1790(f) and 416.1590(f)). They also inquired as to whether the public will have access to the published decisions, and they expressed concern that the decisions might contain personally identifiable information.

Response: On June 16, 2017, the Administrative Conference of the United States (ACUS) adopted Recommendation 2017–1, ''Adjudication Materials on Agency Websites.'' [4] ACUS recommended that ''[a]gencies should consider providing access on their websites to decisions and supporting materials (*e.g.,* pleadings, motions, briefs) issued and filed in adjudicative proceedings.'' ACUS also recommended that ''[a]gencies that adjudicate large volumes of cases that do not vary considerably in terms of their factual contexts or the legal analyses employed in their dispositions should consider disclosing on their websites a representative sampling of actual cases and associated adjudication materials.'' We will work with ACUS with respect to this recommendation, and we will provide details in sub-regulatory guidance of how we will publish decisions after these final rules become effective. In response to the commenters' concerns about privacy, we take concerns regarding personally identifiable information seriously, and the final rule makes clear that we will remove or redact any personally identifiable information from the decisions.

Comment: One commenter stated that proposed § 404.1790 should use a ''preponderance of the evidence'' standard rather than the ''substantial evidence standard.''

Response: The Appeals Council is an appellate body that generally reviews decisions using the substantial evidence standard.[5] Therefore, we are not changing this language.

Comment: Some commenters stated that the word ''may'' should be changed to ''will'' in proposed §§ 404.1790(f) and 416.1590(f), which state, ''Prior to making a decision public, we may remove or redact information from the decision.''

Response: We adopted this comment and changed ''may'' to ''will.'' We will redact any personally identifiable information from the decisions.

Comment: One commenter stated that the 3-year ban on reinstatement after suspension is too harsh.

Response: The 3-year prohibition is actually a 3-year wait to reapply for reinstatement and we believe it is appropriate, because our experience shows that when the Appeals Council denies a request for reinstatement, the representative typically has not taken appropriate action to remedy the violation or does not understand its severity. We are implementing this change to ensure more thoroughly supported requests for reinstatement.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563 and are subject to OMB review.

Executive Order 13771

This rule is not subject to the requirements of Executive Order 13771 because it is administrative in nature and results in no more than de minimis costs.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These final rules contain information collection burdens in §§ 404.1740(b)(5) through (9) and 416.1540(b)(5) through (b)(9) that require OMB clearance under the Paperwork Reduction Act of 1995 (PRA). As the PRA requires, we submitted a clearance request to OMB for approval of these sections. We will publish the OMB number and expiration date upon approval.

Further, these final rules contain information collection activities at 20 CFR 404.1750(c) and (e)(2), 404.1765(g)(1), 404.1775(b), 404.1799(d)(2), 416.1550(c) and (e)(2), 416.1565(g)(1), 416.1575(b), and 416.1599(d)(2). However, 44 U.S.C. 3518(c)(1)(B)(ii) exempts these activities from the OMB clearance requirements under the Paperwork Reduction Act of 1995.

We published an NPRM on August 16, 2016 at 81 FR 54520. In that NPRM, we solicited comments under the PRA on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. We received no public comments relating to any of these issues. We will not collect the information referenced in these burden sections until we receive OMB approval.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, survivors, and disability insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Nancy A. Berryhill,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we amend 20 CFR chapter III,

[4] Administrative Conference of the United States, Recommendation 2017–1, *Adjudication Materials on Agency Websites,* 82 FR 31039 (July 5, 2017).

[5] 20 CFR 404.970(a)(3), 416.1470(a)(3).

parts 404 and part 416, as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart R—[Amended]

■ 1. The authority citation for subpart R of part 404 continues to read as follows:

Authority: Secs. 205(a), 206, 702(a)(5), and 1127 of the Social Security Act (42 U.S.C. 405(a), 406, 902(a)(5), and 1320a–6).

■ 2. Revise § 404.1705(b) to read as follows:

§ 404.1705 Who may be your representative.

* * * * *

(b) You may appoint any person who is not an attorney to be your representative in dealings with us if the person—

(1) Is capable of giving valuable help to you in connection with your claim;

(2) Is not disqualified or suspended from acting as a representative in dealings with us;

(3) Is not prohibited by any law from acting as a representative; and

(4) Is generally known to have a good character and reputation. Persons lacking good character and reputation, include, but are not limited to, persons who have a final conviction of a felony (as defined by § 404.1506(c)) or any crime involving moral turpitude, dishonesty, false statements, misrepresentation, deceit, or theft.

* * * * *

■ 3. Amend § 404.1740 as follows:

■ a. Revise paragraphs (b)(2)(vii) and (b)(3);

■ b. Add paragraphs (b)(5) through (10);

■ c. Revise paragraphs (c)(1) through (6) and (c)(7)(ii);

■ d. Remove paragraph (c)(7)(iii);

■ e. Revise paragraphs (c)(8) through (13); and

■ f. Add paragraph (c)(14).

The revisions and additions read as follows:

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

* * * * *

(b) * * *

(2) * * *

(vii) Any other factors showing how the claimant's impairment(s) affects his or her ability to work. In §§ 404.1560 through 404.1569a, we discuss in more detail the evidence we need when we consider vocational factors.

(3) Conduct his or her dealings in a manner that furthers the efficient, fair, and orderly conduct of the administrative decision-making process, including duties to:

(i) Provide competent representation to a claimant. Competent representation requires the knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A representative must know the significant issue(s) in a claim, have reasonable and adequate familiarity with the evidence in the case, and have a working knowledge of the applicable provisions of the Social Security Act, as amended, the regulations, the Social Security Rulings, and any other applicable provisions of law.

(ii) Act with reasonable diligence and promptness in representing a claimant. This includes providing prompt and responsive answers to our requests for information pertinent to processing of the claim.

(iii) When requested, provide us, in a manner we specify, potential dates and times that the representative will be available for a hearing. We will inform the representative how many potential dates and times we require to coordinate the hearing schedule.

(iv) Only withdraw representation at a time and in a manner that does not disrupt the processing or adjudication of a claim and that provides the claimant adequate time to find new representation, if desired. A representative should not withdraw after we set the time and place for the hearing (see § 404.936) unless the representative can show that a withdrawal is necessary due to extraordinary circumstances, as we determine on a case-by-case basis.

(v) Maintain prompt and timely communication with the claimant, which includes, but is not limited to, reasonably informing the claimant of all matters concerning the representation, consulting with the claimant on an ongoing basis during the entire representational period, and promptly responding to a claimant's reasonable requests for information. When we evaluate whether a representative has maintained prompt and timely communication with the claimant, we will consider the difficulty the representative has in locating a particular claimant (*e.g.,* because the claimant is homeless) and the representative's efforts to keep that claimant informed.

* * * * *

(5) Disclose in writing, at the time a medical or vocational opinion is submitted to us or as soon as the representative is aware of the submission to us, if:

(i) The representative's employee or any individual contracting with the representative drafted, prepared, or issued the medical or vocational opinion; or

(ii) The representative referred or suggested that the claimant seek an examination from, treatment by, or the assistance of, the individual providing opinion evidence.

(6) Disclose to us immediately if the representative discovers that his or her services are or were used by the claimant to commit fraud against us.

(7) Disclose to us whether the representative is or has been disbarred or suspended from any bar or court to which he or she was previously admitted to practice, including instances in which a bar or court took administrative action to disbar or suspend the representative in lieu of disciplinary proceedings (*e.g.* acceptance of voluntary resignation pending disciplinary action). If the disbarment or suspension occurs after the appointment of the representative, the representative will immediately disclose the disbarment or suspension to us.

(8) Disclose to us whether the representative is or has been disqualified from participating in or appearing before any Federal program or agency, including instances in which a Federal program or agency took administrative action to disqualify the representative in lieu of disciplinary proceedings (*e.g.* acceptance of voluntary resignation pending disciplinary action). If the disqualification occurs after the appointment of the representative, the representative will immediately disclose the disqualification to us.

(9) Disclose to us whether the representative has been removed from practice or suspended by a professional licensing authority for reasons that reflect on the person's character, integrity, judgment, reliability, or fitness to serve as a fiduciary. If the removal or suspension occurs after the appointment of the representative, the representative will immediately disclose the removal or suspension to us.

(10) Ensure that all of the representative's employees, assistants, partners, contractors, or any person assisting the representative on claims for which the representative has been appointed, comply with these rules of conduct and standards of responsibility for representatives, when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work.

This includes a duty to take remedial action when:

(i) The representative's employees, assistants, partners, contractors or other individuals' conduct violates these rules of conduct and standards of responsibility; and

(ii) The representative has reason to believe a violation of these rules of conduct and standards of responsibility occurred or will occur.

(c) * * *

(1) In any manner or by any means threaten, coerce, intimidate, deceive or knowingly mislead a claimant, or prospective claimant or beneficiary, regarding benefits or other rights under the Act. This prohibition includes misleading a claimant, or prospective claimant or beneficiary, about the representative's services and qualifications.

(2) Knowingly charge, collect or retain, or make any arrangement to charge, collect or retain, from any source, directly or indirectly, any fee for representational services in violation of applicable law or regulation. This prohibition includes soliciting any gift or any other item of value, other than what is authorized by law.

(3) Make or present, or participate in the making or presentation of, false or misleading oral or written statements, evidence, assertions, or representations about a material fact or law concerning a matter within our jurisdiction, in matters where the representative knows or should have known that those statements, evidence, assertions, or representations are false or misleading.

(4) Through his or her own actions or omissions, unreasonably delay or cause to be delayed, without good cause (see § 404.911(b)), the processing of a claim at any stage of the administrative decision-making process.

(5) Divulge, without the claimant's consent, except as may be authorized by regulations prescribed by us or as otherwise provided by Federal law, any information we furnish or disclose about a claim or prospective claim.

(6) Attempt to influence, directly or indirectly, the outcome of a decision, determination, or other administrative action by any means prohibited by law, or by offering or granting a loan, gift, entertainment, or anything of value to a presiding official, agency employee, or witness who is or may reasonably be expected to be involved in the administrative decision-making process, except as reimbursement for legitimately incurred expenses or lawful compensation for the services of an expert witness retained on a non-contingency basis to provide evidence.

(7) * * *

(ii) Behavior that has the effect of improperly disrupting proceedings or obstructing the adjudicative process, including but not limited to:

(A) Directing threatening or intimidating language, gestures, or actions at a presiding official, witness, contractor, or agency employee;

(B) Providing misleading information or misrepresenting facts that affect how we process a claim, including, but not limited to, information relating to the claimant's work activity or the claimant's place of residence or mailing address in matters where the representative knows or should have known that the information was misleading and the facts would constitute a misrepresentation; and

(C) Communicating with agency staff or adjudicators outside the normal course of business or other prescribed procedures in an attempt to inappropriately influence the processing or outcome of a claim(s).

(8) Violate any section of the Act for which a criminal or civil monetary penalty is prescribed.

(9) Refuse to comply with any of our rules or regulations.

(10) Suggest, assist, or direct another person to violate our rules or regulations.

(11) Advise any claimant or beneficiary not to comply with any of our rules or regulations.

(12) Knowingly assist a person whom we suspended or disqualified to provide representational services in a proceeding under title II of the Act, or to exercise the authority of a representative described in § 404.1710.

(13) Fail to comply with our sanction(s) decision.

(14) Fail to oversee the representative's employees, assistants, partners, contractors, or any other person assisting the representative on claims for which the representative has been appointed when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work.

■ 4. Amend § 404.1745 by revising paragraphs (d) and (e) and adding paragraph (f) to read as follows:

§ 404.1745 Violations of our requirements, rules, or standards.

* * * * *

(d) Has been, by reason of misconduct, disbarred or suspended from any bar or court to which he or she was previously admitted to practice (see § 404.1770(a));

(e) Has been, by reason of misconduct, disqualified from participating in or appearing before any Federal program or agency (see § 404.1770(a)); or

(f) Who, as a non-attorney, has been removed from practice or suspended by a professional licensing authority for reasons that reflect on the person's character, integrity, judgment, reliability, or fitness to serve as a fiduciary.

■ 5. Amend § 404.1750 by revising paragraphs (c), (d), (e)(2), and (f) to read as follows:

§ 404.1750 Notice of charges against a representative.

* * * * *

(c) We will advise the representative to file an answer, within 14 business days from the date of the notice, or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The General Counsel or other delegated official may extend the 14-day period specified in paragraph (c) of this section for good cause, in accordance with § 404.911.

(e) * * *

(2) File the answer with the Social Security Administration, at the address specified on the notice, within the 14-day time period specified in paragraph (c) of this section.

(f) If the representative does not file an answer within the 14-day time period specified in paragraph (c) of this section (or the period extended in accordance with paragraph (d) of this section), he or she does not have the right to present evidence, except as may be provided in § 404.1765(g).

■ 6. Revise § 404.1755 to read as follows:

§ 404.1755 Withdrawing charges against a representative.

The General Counsel or other delegated official may withdraw charges against a representative. We will withdraw charges if the representative files an answer, or we obtain evidence, that satisfies us that we should not suspend or disqualify the representative from acting as a representative. When we consider withdrawing charges brought under § 404.1745(d) through (f) based on the representative's assertion that, before or after our filing of charges, the representative has been reinstated to practice by the court, bar, or Federal program or Federal agency that suspended, disbarred, or disqualified the representative, the General Counsel or other delegated official will determine whether such reinstatement occurred, whether it remains in effect, and whether he or she is reasonably satisfied that the representative will in the future act in accordance with the

provisions of section 206(a) of the Act and our rules and regulations. If the representative proves that reinstatement occurred and remains in effect and the General Counsel or other delegated official is so satisfied, the General Counsel or other delegated official will withdraw those charges. The action of the General Counsel or other delegated official regarding withdrawal of charges is solely that of the General Counsel or other delegated official and is not reviewable, or subject to consideration in decisions made under §§ 404.1770 and 404.1790. If we withdraw the charges, we will notify the representative by mail at the representative's last known address.

■ 7. Amend § 404.1765 by revising paragraphs (b)(1), (c), (d)(1) and (3), and (g)(1) and (3) to read as follows:

§ 404.1765 Hearing on charges.

* * * * *

(b) *Hearing officer.* (1) The Deputy Commissioner for the Office of Hearings Operations or other delegated official will assign an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

* * * * *

(c) *Time and place of hearing.* The hearing officer will mail the parties a written notice of the hearing at their last known addresses, at least 14 calendar days before the date set for the hearing. The notice will inform the parties whether the appearance of the parties or any witnesses will be in person, by video teleconferencing, or by telephone. The notice will also include requirements and instructions for filing motions, requesting witnesses, and entering exhibits.

(d) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing, either on his or her own initiative, or at the request of the representative or the other party to the hearing. The hearing officer will not consider objections to the manner of appearance of parties or witnesses, unless the party shows good cause not to appear in the prescribed manner. To determine whether good cause exists for extending the deadline, we use the standards explained in § 404.911.

* * * * *

(3) Subject to the limitations in paragraph (g)(2) of this section, the hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

* * * * *

(g) *Conduct of the hearing.* (1) The representative or the other party may file a motion for decision on the basis of the record prior to the hearing. The hearing officer will give the representative and the other party a reasonable amount of time to submit any evidence and to file briefs or other written statements as to fact and law prior to deciding the motion. If the hearing officer concludes that there is no genuine dispute as to any material fact and the movant is entitled to a decision as a matter of law, the hearing officer may grant the motion and issue a decision in accordance with the provisions of § 404.1770.

* * * * *

(3) The hearing officer will make the hearing open to the representative, to the other party, and to any persons the hearing officer or the parties consider necessary or proper. The hearing officer will inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

* * * * *

■ 8. Revise § 404.1775(b) to read as follows:

§ 404.1775 Requesting review of the hearing officer's decision.

* * * * *

(b) *Time and place of filing request for review.* The party requesting review will file the request for review in writing with the Appeals Council within 14 business days from the date the hearing officer mailed the notice. The party requesting review will certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

■ 9. Revise § 404.1780(a) to read as follows:

§ 404.1780 Appeals Council's review of hearing officer's decision.

(a) Upon request, the Appeals Council will give the parties a reasonable time to file briefs or other written statements as to fact and law, and to request to appear before the Appeals Council to present oral argument. When oral argument is requested within the time designated by the Appeals Council, the Appeals Council will grant the request for oral argument and determine whether the parties will appear at the oral argument in person, by video teleconferencing, or by telephone. If oral argument is not requested within the time designated by the Appeals Council, the Appeals Council may deny the request.

* * * * *

■ 10. Revise § 404.1785 to read as follows:

§ 404.1785 Evidence permitted on review.

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council finds the evidence offered is material to an issue it is considering, it may consider that evidence, as described in paragraph (b) of this section.

(b) *Individual charged filed an answer.* (1) When the Appeals Council finds that additional evidence material to the charges is available, and the individual charged filed an answer to the charges, the Appeals Council will allow the party with the information to submit the additional evidence.

(2) Before the Appeals Council admits additional evidence into the record, it will mail a notice to the parties, informing them that evidence about certain issues was submitted. The Appeals Council will give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(3) The Appeals Council will determine whether the additional evidence warrants a new review by a hearing officer or whether the Appeals Council will consider the additional evidence as part of its review of the case.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the representative may not introduce evidence that was not considered at the hearing.

■ 11. Amend § 404.1790 by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 404.1790 Appeals Council's decision.

(a) The Appeals Council will base its decision upon the evidence in the hearing record and any other evidence it may permit on review. The Appeals Council will affirm the hearing officer's decision if the action, findings, and conclusions are supported by substantial evidence. If the hearing officer's decision is not supported by substantial evidence, the Appeals Council will either:

(1) Reverse or modify the hearing officer's decision; or

(2) Return the case to the hearing officer for further proceedings.

* * * * *

(f) The Appeals Council may designate and publish certain final decisions as precedent for other actions brought under its representative conduct provisions. Prior to making a decision public, we will remove or

redact personally identifiable information from the decision.

■ 12. Amend § 404.1799 by revising paragraphs (a), (d)(2), and (f) to read as follows:

§ 404.1799 Reinstatement after suspension or disqualification—period of suspension not expired.

(a) After more than one year has passed, a person who has been suspended or disqualified may ask the Appeals Council for permission to serve as a representative again. The Appeals Council will assign and process a request for reinstatement using the same general procedures described in § 404.1776.

* * * * *

(d) * * *

(2) If a person was disqualified because he or she had been disbarred, suspended, or removed from practice for the reasons described in § 404.1745(d) through (f), the Appeals Council will grant a request for reinstatement as a representative only if the criterion in paragraph (d)(1) of this section is met and the disqualified person shows that he or she has been admitted (or readmitted) to and is in good standing with the court, bar, Federal program or agency, or other governmental or professional licensing authority from which he or she had been disbarred, suspended, or removed from practice.

* * * * *

(f) If the Appeals Council decides not to grant the request, it will not consider another request before the end of 3 years from the date of the notice of the previous denial.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart O—[Amended]

■ 13. The authority citation for subpart O of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1127, and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–6, and 1383(d)).

■ 14. Revise § 416.1505(b) to read as follows:

§ 416.1505 Who may be your representative.

* * * * *

(b) You may appoint any person who is not an attorney to be your representative in dealings with us if the person—

(1) Is capable of giving valuable help to you in connection with your claim;

(2) Is not disqualified or suspended from acting as a representative in dealings with us;

(3) Is not prohibited by any law from acting as a representative; and

(4) Is generally known to have a good character and reputation. Persons lacking good character and reputation, include, but are not limited to, persons who have a final conviction of a felony (as defined by § 404.1506(c) of this chapter), or any crime involving moral turpitude, dishonesty, false statement, misrepresentations, deceit, or theft.

* * * * *

■ 15. Amend § 416.1540 follows:

■ a. Revise paragraphs (b)(2)(vii) and (b)(3);

■ b. Add paragraphs (b)(5) through (10);

■ c. Revise paragraphs (c)(1) through (6) and (c)(7)(ii);

■ d. Remove paragraph (c)(7)(iii);

■ e. Revise paragraphs (c)(8) through (13); and

■ f. Add paragraph (c)(14).

The revisions and additions read as follows:

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

* * * * *

(b) * * *

(2) * * *

(vii) Any other factors showing how the claimant's impairment(s) affects his or her ability to work. In §§ 416.960 through 416.969a, we discuss in more detail the evidence we need when we consider vocational factors.

(3) Conduct his or her dealings in a manner that furthers the efficient, fair, and orderly conduct of the administrative decision-making process, including duties to:

(i) Provide competent representation to a claimant. Competent representation requires the knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A representative must know the significant issue(s) in a claim, have reasonable and adequate familiarity with the evidence in the case, and have a working knowledge of the applicable provisions of the Social Security Act, as amended, the regulations, the Social Security Rulings, and any other applicable provisions of law.

(ii) Act with reasonable diligence and promptness in representing a claimant. This includes providing prompt and responsive answers to our requests for information pertinent to processing of the claim.

(iii) When requested, provide us, in a manner we specify, potential dates and times that the representative will be available for a hearing. We will inform the representative how many potential dates and times we require to coordinate the hearing schedule.

(iv) Only withdraw representation at a time and in a manner that does not disrupt the processing or adjudication of a claim and that provides the claimant adequate time to find new representation, if desired. A representative should not withdraw after we set the time and place for the hearing (see § 416.1436) unless the representative can show that a withdrawal is necessary due to extraordinary circumstances, as we determine on a case-by-case basis.

(v) Maintain prompt and timely communication with the claimant, which includes, but is not limited to, reasonably informing the claimant of all matters concerning the representation, consulting with the claimant on an ongoing basis during the entire representational period, and promptly responding to a claimant's reasonable requests for information. When we evaluate whether a representative has maintained prompt and timely communication with the claimant, we will consider the difficulty the representative has in locating a particular claimant (*e.g.,* because the claimant is homeless) and the representative's efforts to keep that claimant informed.

* * * * *

(5) Disclose in writing, at the time a medical or vocational opinion is submitted to us or as soon as the representative is aware of the submission to us, if:

(i) The representative's employee or any individual contracting with the representative drafted, prepared, or issued the medical or vocational opinion; or

(ii) The representative referred or suggested that the claimant seek an examination from, treatment by, or the assistance of, the individual providing opinion evidence.

(6) Disclose to us immediately if the representative discovers that his or her services are or were used by the claimant to commit fraud against us.

(7) Disclose to us whether the representative is or has been disbarred or suspended from any bar or court to which he or she was previously admitted to practice, including instances in which a bar or court took administrative action to disbar or suspend the representative in lieu of disciplinary proceedings (*e.g.* acceptance of voluntary resignation pending disciplinary action). If the disbarment or suspension occurs after the appointment of the representative, the representative will immediately disclose the disbarment or suspension to us.

(8) Disclose to us whether the representative is or has been disqualified from participating in or appearing before any Federal program or agency, including instances in which a Federal program or agency took administrative action to disqualify the representative in lieu of disciplinary proceedings (*e.g.* acceptance of voluntary resignation pending disciplinary action). If the disqualification occurs after the appointment of the representative, the representative will immediately disclose the disqualification to us.

(9) Disclose to us whether the representative has been removed from practice or suspended by a professional licensing authority for reasons that reflect on the person's character, integrity, judgment, reliability, or fitness to serve as a fiduciary. If the removal or suspension occurs after the appointment of the representative, the representative will immediately disclose the removal or suspension to us.

(10) Ensure that all of the representative's employees, assistants, partners, contractors, or any person assisting the representative on claims for which the representative has been appointed, comply with these rules of conduct and standards of responsibility for representatives, when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work. This includes a duty to take remedial action when:

(i) The representative's employees, assistants, partners, contractors or other individuals' conduct violates these rules of conduct and standards of responsibility; and

(ii) The representative has reason to believe a violation of these rules of conduct and standards of responsibility occurred or will occur.

(c) * * *

(1) In any manner or by any means threaten, coerce, intimidate, deceive or knowingly mislead a claimant, or prospective claimant or beneficiary, regarding benefits or other rights under the Act. This prohibition includes misleading a claimant, or prospective claimant or beneficiary, about the representative's services and qualifications.

(2) Knowingly charge, collect or retain, or make any arrangement to charge, collect or retain, from any source, directly or indirectly, any fee for representational services in violation of applicable law or regulation. This prohibition includes soliciting any gift or any other item of value, other than what is authorized by law.

(3) Make or present, or participate in the making or presentation of, false or misleading oral or written statements, evidence, assertions, or representations about a material fact or law concerning a matter within our jurisdiction, in matters where the representative knows or should have known that those statements, evidence, assertions or representations are false or misleading.

(4) Through his or her own actions or omissions, unreasonably delay or cause to be delayed, without good cause (see § 416.1411(b)), the processing of a claim at any stage of the administrative decision-making process.

(5) Divulge, without the claimant's consent, except as may be authorized by regulations prescribed by us or as otherwise provided by Federal law, any information we furnish or disclose about a claim or prospective claim.

(6) Attempt to influence, directly or indirectly, the outcome of a decision, determination, or other administrative action by any means prohibited by law, or offering or granting a loan, gift, entertainment, or anything of value to a presiding official, agency employee, or witness who is or may reasonably be expected to be involved in the administrative decision-making process, except as reimbursement for legitimately incurred expenses or lawful compensation for the services of an expert witness retained on a non-contingency basis to provide evidence.

(7) * * *

(ii) Behavior that has the effect of improperly disrupting proceedings or obstructing the adjudicative process, including but not limited to:

(A) Directing threatening or intimidating language, gestures, or actions at a presiding official, witness, contractor, or agency employee;

(B) Providing misleading information or misrepresenting facts that affect how we process a claim, including, but not limited to, information relating to the claimant's work activity or the claimant's place of residence or mailing address in matters where the representative knows or should have known that the information was misleading and the facts would constitute a misrepresentation; and

(C) Communicating with agency staff or adjudicators outside the normal course of business or other prescribed procedures in an attempt to inappropriately influence the processing or outcome of a claim(s).

(8) Violate any section of the Act for which a criminal or civil monetary penalty is prescribed.

(9) Refuse to comply with any of our rules or regulations.

(10) Suggest, assist, or direct another person to violate our rules or regulations.

(11) Advise any claimant or beneficiary not to comply with any of our rules or regulations.

(12) Knowingly assist a person whom we suspended or disqualified to provide representational services in a proceeding under title XVI of the Act, or to exercise the authority of a representative described in § 416.1510.

(13) Fail to comply with our sanction(s) decision.

(14) Fail to oversee the representative's employees, assistants, partners, contractors, or any other person assisting the representative on claims for which the representative has been appointed when the representative has managerial or supervisory authority over these individuals or otherwise has responsibility to oversee their work.

■ 16. Amend § 416.1545 by revising paragraphs (d) and (e) and adding paragraph (f) to read as follows:

§ 416.1545 Violations of our requirements, rules, or standards.

* * * * *

(d) Has been, by reason of misconduct, disbarred or suspended from any bar or court to which he or she was previously admitted to practice (see § 416.1570(a));

(e) Has been, by reason of misconduct, disqualified from participating in or appearing before any Federal program or agency (see § 416.1570(a)); or

(f) Who, as a non-attorney, has been removed from practice or suspended by a professional licensing authority for reasons that reflect on the person's character, integrity, judgment, reliability, or fitness to serve as a fiduciary.

■ 17. Amend § 416.1550 by revising paragraphs (c), (d), (e)(2), and (f) to read as follows:

§ 416.1550 Notice of charges against a representative.

* * * * *

(c) We will advise the representative to file an answer, within 14 business days from the date of the notice, or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The General Counsel or other delegated official may extend the 14-day period specified in paragraph (c) of this section for good cause in accordance with § 416.1411.

(e) * * *

(2) File the answer with the Social Security Administration, at the address

specified on the notice, within the 14-day time period specified in paragraph (c) of this section.

(f) If the representative does not file an answer within the 14-day time period specified in paragraph (c) of this section (or the period extended in accordance with paragraph (d) of this section), he or she does not have the right to present evidence, except as may be provided in § 416.1565(g).

■ 18. Revise § 416.1555 to read as follows:

§ 416.1555 Withdrawing charges against a representative.

The General Counsel or other delegated official may withdraw charges against a representative. We will withdraw charges if the representative files an answer, or we obtain evidence, that satisfies us that we should not suspend or disqualify the representative from acting as a representative. When we consider withdrawing charges brought under § 416.1545(d) through (f) based on the representative's assertion that, before or after our filing of charges, the representative has been reinstated to practice by the court, bar, or Federal program or Federal agency that suspended, disbarred, or disqualified the representative, the General Counsel or other delegated official will determine whether such reinstatement occurred, whether it remains in effect, and whether he or she is reasonably satisfied that the representative will in the future act in accordance with the provisions of section 206(a) of the Act and our rules and regulations. If the representative proves that reinstatement occurred and remains in effect and the General Counsel or other delegated official is so satisfied, the General Counsel or other delegated official will withdraw those charges. The action of the General Counsel or other delegated official regarding withdrawal of charges is solely that of the General Counsel or other delegated official and is not reviewable, or subject to consideration in decisions made under §§ 416.1570 and 416.1590. If we withdraw the charges, we will notify the representative by mail at the representative's last known address.

■ 19. Amend § 416.1565 by revising paragraphs (b)(1), (c), (d)(1) and (3), and (g)(1) and (3) as follows:

§ 416.1565 Hearing on charges.

* * * * *

(b) *Hearing officer.* (1) The Deputy Commissioner for the Office of Hearings Operations or other delegated official will assign an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

* * * * *

(c) *Time and place of hearing.* The hearing officer shall mail the parties a written notice of the hearing at their last known addresses, at least 14 calendar days before the date set for the hearing. The notice will inform the parties whether the appearance of the parties or any witnesses will be in person, by video teleconferencing, or by telephone. The notice will also include requirements and instructions for filing motions, requesting witnesses, and entering exhibits.

(d) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing, either on his or her own initiative, or at the request of the representative or the other party to the hearing. The hearing officer will not consider objections to the manner of appearance of parties or witnesses, unless the party shows good cause not to appear in the prescribed manner. To determine whether good cause exists for extending the deadline, we use the standards explained in § 416.1411.

* * * * *

(3) Subject to the limitations in paragraph (g)(2) of this section, the hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

* * * * *

(g) *Conduct of the hearing.* (1) The representative or the other party may file a motion for decision on the basis of the record prior to the hearing. The hearing officer will give the representative and the other party a reasonable amount of time to submit any evidence and to file briefs or other written statements as to fact and law prior to deciding the motion. If the hearing officer concludes that there is no genuine dispute as to any material fact and the movant is entitled to a decision as a matter of law, the hearing officer may grant the motion and issue a decision in accordance with the provisions of § 416.1570.

* * * * *

(3) The hearing officer will make the hearing open to the representative, to the other party, and to any persons the hearing officer or the parties consider necessary or proper. The hearing officer will inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

* * * * *

■ 20. Revise § 416.1575(b) to read as follows:

§ 416.1575 Requesting review of the hearing officer's decision.

* * * * *

(b) *Time and place of filing request for review.* The party requesting review will file the request for review in writing with the Appeals Council within 14 business days from the date the hearing officer mailed the notice. The party requesting review will certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

■ 21. Revise § 416.1580(a) to read as follows:

§ 416.1580 Appeals Council's review of hearing officer's decision.

(a) Upon request, the Appeals Council will give the parties a reasonable time to file briefs or other written statements as to fact and law, and to request to appear before the Appeals Council to present oral argument. When oral argument is requested within the time designated by the Appeals Council, the Appeals Council will grant the request for oral argument and determine whether the parties will appear at the oral argument in person, by video teleconferencing, or by telephone. If oral argument is not requested within the time designated by the Appeals Council, the Appeals Council may deny the request.

* * * * *

■ 22. Revise § 416.1585 to read as follows:

§ 416.1585 Evidence permitted on review.

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council finds the evidence offered is material to an issue it is considering, it may consider that evidence, as described in paragraph (b) of this section.

(b) *Individual charged filed an answer.* (1) When the Appeals Council finds that additional evidence material to the charges is available, and the individual charged filed an answer to the charges, the Appeals Council will allow the party with the information to submit the additional evidence.

(2) Before the Appeals Council admits additional evidence into the record, it will mail a notice to the parties, informing them that evidence about certain issues was submitted. The Appeals Council will give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(3) The Appeals Council will determine whether the additional

evidence warrants a new review by a hearing officer or whether the Appeals Council will consider the additional evidence as part of its review of the case.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the representative may not introduce evidence that was not considered at the hearing.

■ 23. Amend § 416.1590 by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 416.1590 Appeals Council's decision.

(a) The Appeals Council will base its decision upon the evidence in the hearing record and any other evidence it may permit on review. The Appeals Council will affirm the hearing officer's decision if the action, findings, and conclusions are supported by substantial evidence. If the hearing officer's decision is not supported by substantial evidence, the Appeals Council will either:

(1) Reverse or modify the hearing officer's decision; or

(2) Return a case to the hearing officer for further proceedings.

* * * * *

(f) The Appeals Council may designate and publish certain final decisions as precedent for other actions brought under its representative conduct provisions. Prior to making a decision public, we will remove or redact personally identifiable information from the decision.

■ 24. Amend § 416.1599 by revising paragraphs (a), (d)(2), and (f) to read as follows:

§ 416.1599 Reinstatement after suspension or disqualification—period of suspension not expired.

(a) After more than one year has passed, a person who has been suspended or disqualified may ask the Appeals Council for permission to serve as a representative again. The Appeals Council will assign and process a request for reinstatement using the same general procedures described in § 416.1576.

* * * * *

(d) * * *

(2) If a person was disqualified because he or she had been disbarred, suspended, or removed from practice for the reasons described in § 416.1545(d) through (f), the Appeals Council will grant a request for reinstatement as a representative only if the criterion in paragraph (d)(1) of this section is met and the disqualified person shows that he or she has been admitted (or readmitted) to and is in good standing with the court, bar, Federal program or agency, or other governmental or professional licensing authority from which he or she had been disbarred, suspended, or removed from practice.

* * * * *

(f) If the Appeals Council decides not to grant the request, it will not consider another request before the end of 3 years from the date of the notice of the previous denial.

[FR Doc. 2018–13989 Filed 6–29–18; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2018–0626]

RIN 1625–AA08

Special Local Regulation; Wyandotte Invites, Detroit River, Trenton Channel, Wyandotte, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain navigable waters of the Detroit River, Trenton Channel, Wyandotte, MI. This action is necessary and is intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the Wyandotte Invites event.

DATES: This temporary final rule is effective from 8 a.m. until 12:30 p.m. on July 15, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0626 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, or email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard just recently received the final details of this rowing event, Wyandotte Invites, which does not provide sufficient time to publish an NPRM prior to the event. Thus, delaying the effective date of this rule to wait for a comment period to run would be contrary to public interest because it would inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event. It is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule.

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 inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Detroit (COTP) has determined that the likely combination of recreation vessels, commercial vessels, and an unknown number of spectators in close proximity to a youth rowing regatta along the water pose extra and unusual hazards to public safety and property. Therefore, the COTP is establishing a special local regulation around the event location to help minimize risks to safety of life and property during this event.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation from 8 a.m. until 12:30 p.m. on July 15, 2018. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect

spectators, vessels, and participants. The special local regulation will encompass the following waterway: All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: The first line is drawn directly across the channel from position 42°11.0′ N, 083°09.4′ W (NAD 83); the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W (NAD 83).

An on-scene representative of the COTP may permit vessels to transit the area when no race activity is occurring. The on-scene representative may be present on any Coast Guard, state, or local law enforcement vessel assigned to patrol the event. Vessel operators desiring to transit through the regulated area must contact the Coast Guard Patrol Commander to obtain permission to do so. The COTP or his designated on-scene representative may be contacted via VHF Channel 16 or at 313–568–9560.

The COTP or his designated on-scene representative will notify the public of the enforcement of this rule by all appropriate means, including a Broadcast Notice to Mariners and Local Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the special local regulation. Vessel traffic will be able to safely transit around this special local regulation zone which will impact a small designated area of the Detroit River from 8 a.m. until 12:30 p.m. on July 15, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the special local regulation and the rule allows vessels to seek permission to enter the 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 special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 special local regulation lasting less than five hours that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L[61] 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 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.

■ 2. Add § 100.T09–0626 to read as follows:

§ 100.T09–0626 Special Local Regulation; Wyandotte Invites, Detroit River, Trenton Channel, Wyandotte, MI.

(a) *Regulated areas.* The following regulated area is established as a special local regulation: All waters of the Detroit River, Trenton Channel between the following two lines going from bank-to-bank: the first line is drawn directly across the channel from position 42°11.0′ N, 083°09.4′ W (NAD 83); the second line, to the north, is drawn directly across the channel from position 42°11.7′ N, 083°08.9′ W (NAD 83).

(b) *Enforcement date.* The regulated area described in paragraph (a) will be enforced from 8 a.m. until 12:30 p.m. on July 15, 2018.

(c) *Regulations.* (1) Vessels transiting through the regulated area are to maintain the minimum speeds for safe navigation.

(2) Vessel operators desiring to enter, transit through, anchoring in, remaining in, or operate within the regulated area must contact the CTOP Detroit or his designated representative to obtain permission to do so. The COTP Detroit or his designated representative may be contacted via VHF Channel 16 or at 313–568–9560. Vessel operators given permission to operate within the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

(d) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Detroit in the enforcement of the regulated areas.

Dated: June 27, 2018.

Jeffrey W. Novak,

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

[FR Doc. 2018–14173 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0485]

Safety Zone; Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Des Plaines River between the McDonough Street Bridge and Cass Street Bridge in Joliet, Illinois on July 3, 2018. This action is necessary and intended to protect mariners and ensure the safety of life from the hazards associated with a shore based fireworks show. During the enforcement period listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 Code of Federal Regulations (CFR) 165.930 will be enforced from 9:15 p.m. to 10 p.m. on July 3, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, telephone 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Des Plaines River between the McDonough Street Bridge and Cass Street Bridge in Joliet, Illinois. Enforcement will occur from 9:15 p.m. to 10 p.m. on July 3, 2018. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 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 this safety zone via Broadcast Notice to Mariners and Local Notice to Mariners. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic notifications, email notifications, or by direct communication from on scene patrol commanders. If the Captain of the Port or a designated representative determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may grant general permission to enter the regulated area via Broadcast Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: June 18, 2018.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2018–14190 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0450]

RIN 1625–AA00

Safety Zone; Fireworks Display, Delaware Bay, Lewes, DE

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Delaware Bay off Lewes, DE from 9 p.m. to 10 p.m. on July 4, 2018 during the Lewes, DE Fireworks Display. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the boating public during the event. This regulation prohibits persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port (COTP) Delaware Bay or a designated representative.

DATES: This rule is effective from 9 p.m. to 10 p.m. on July 4, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0450 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 MST1 Edmund Ofalt, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271–4814, email *Edmund.J.Ofalt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
TFR Temporary Final Rule
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to do so. There is insufficient time to allow for a reasonable comment period prior to the date of the event. The rule must be in force by July 4, 2018 to serve its purpose of ensuring the safety of spectators and the general public from hazards associated with the fireworks display. Hazards include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

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

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 Delaware Bay (COTP) has determined that potential hazards associated with the fireworks display on July 4, 2018 will be a safety concern for anyone within a 350 yard radius of the fireworks barge, which will be anchored in approximate position 38°47′12.07″ N, 075°07′48.89″ W. This rule is needed to protect persons, vessels and the public within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the waters of Delaware Bay off Lewes, DE during a fireworks display from a barge. The event is scheduled to take place from 9 p.m. to 10 p.m. on July 4, 2018. The safety zone will extend 350 yards around the barge, which will be anchored at approximate position 38°47′12.07″ N, 075°07′48.89″ W. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP Delaware Bay or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP Delaware Bay or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Delaware Bay or a designated representative. The Coast Guard will provide public notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and by on-scene actual notice from designated representatives. The regulatory text we are proposing appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, 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 rule will not have a significant economic impact on any vessel owner or operator for the following reasons: (1) Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Delaware Bay or a designated representative, they may operate in the surrounding area during the enforcement period; (2) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP Delaware Bay or a designated representative; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene actual notice from designated representatives.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable water in the Delaware Bay, during a fireworks display lasting approximately one hour. This rule 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 preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0450 to read as follows:

§ 165.T05–0450 Safety Zone; Safety Zone; Fireworks, Delaware River, Philadelphia PA.

(a) *Location.* The following area is a safety zone: All waters of Delaware Bay off Lewes, DE within 350 yards of the barge anchored in approximate position 38°47′12.07″ N, 075°07′48.89″ W. These coordinates are based on the 1984 World Geodedic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port (COTP), Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, all persons and vessels are prohibited from entering the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF–FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be enforced from approximately 9 p.m. to 10 p.m. on July 4, 2018.

Dated: June 20, 2018.

S.E. Anderson,

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

[FR Doc. 2018–14103 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0633]

RIN 1625–AA00

Safety Zone; Columbia River, Kennewick, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Columbia River near Columbia Park in Kennewick, WA. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display on July 4, 2018. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 9 p.m. to 11:30 p.m. on July 4, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0633 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Laura Springer, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

Tri City Water Follies will be conducting a fireworks display from 10 p.m. to 10:30 p.m. on July 4, 2018, to commemorate Independence Day. The fireworks are to be launched from Columbia Park in Kennewick, WA, over the Columbia River. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this display will be a safety concern for anyone within a 450-yard radius of the launch site.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable to complete a notice-and-comment rulemaking by the date of the fireworks display, July 4, 2018.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the Coast Guard needs to have a safety zone regulation in place by July 4, 2018, to respond to the potential safety hazards associated with the fireworks display on that date.

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 Columbia River (COTP) has determined that potential hazards associated with the fireworks display on July 4, 2018, will be a safety concern for anyone within a 450-yard radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. to 11:30 p.m. on July 4, 2018. The safety zone will cover all navigable waters of the Columbia River within 450 yards of a launch site located at 46°13′22″ N, 119°08′30″ W, in vicinity of Columbia Park in Kennewick, WA. The duration of the zone is intended to ensure the safety of vessels and these navigable waters an hour before, during, and an hour after the scheduled 10 p.m. to 10:30 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 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 will be able to safely transit around this safety zone which will impact a small designated area of the Columbia River for approximately two and a half hours when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners 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 certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety

zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 two and a half hours that will prohibit entry within 450 yards of a fireworks launch site. 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, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–0633 to read as follows:

§ 165.T13–0633 Safety Zone; Columbia River, Kennewick, WA.

(a) *Safety zone.* The following area is designated a safety zone: Waters of the Columbia River, within a 450-yard radius of the fireworks launch site located at 46°13′22″ N, 119°08′30″ W in vicinity of Columbia Park in Kennewick, WA.

(b) *Regulations.* In accordance with § 165.23, no person may enter or remain in this safety zone unless authorized by the Captain of the Port Columbia River or his designated representative. Also in accordance with § 165.23, no person may bring into, or allow to remain in this safety zone any vehicle, vessel, or object unless authorized by the Captain of the Port Columbia River or his designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. to 11:30 p.m. on July 4, 2018.

Dated: June 25, 2018.

D.F. Berliner,

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

[FR Doc. 2018–14139 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0611]

RIN 1625–AA00

Safety Zone; Monongahela River Mile 32.0 to 36.0, Gallatin, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Monongahela River from mile marker 32.0 to mile marker 36.0. The safety zone is necessary to protect persons, vessels, and the marine environment from potential hazards created by pipeline removal work. Entry of vessels or persons into this zone is prohibited

unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: This rule is effective without actual notice from July 2, 2018 through 6 p.m. on July 11, 2018. For the purposes of enforcement, actual notice will be used from 6 a.m. on June 27, 2018, through July 2, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0611 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 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Marine Safety Unit Pittsburgh
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 June 20, 2018, River Salvage notified the Coast Guard that it would be conducting several days of pipeline removal work over the next several weeks in the vicinity of mile marker 34 of the Monongahela River in Gallatin, PA. 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 is impracticable. We must establish this safety zone by June 27, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 respond to the potential safety hazards associated with the pipeline removal work.

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 Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with pipeline removal work from June 27, 2018 through July 11, 2018, will be a safety concern for anyone on a four-mile stretch of the Monongahela River. This rule is necessary to protect persons, vessels, and the marine environment in the navigable waters within the safety zone while the pipeline is removed.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 6 a.m. on June 27, 2018 through 6 p.m. on July 11, 2018. The safety zone will cover all navigable waters of the Monongahela River from mile marker 32.0 to mile marker 36.0. The Coast Guard was informed that the pipeline removal work would take place from 6 a.m. through 6 p.m. on each of approximately three consecutive days during the effective period. The periods of enforcement will be 30 minutes prior to, during, and 1 hour after any pipeline removal work. A safety vessel will coordinate all vessel traffic during the enforcement periods. The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), and/or Marine Safety Information Bulletins (MSIBs), or through other means of public notice, as appropriate, at least 3 hours in advance of the enforcement periods. The duration of the zone is intended to protect persons, vessels, and the marine environment in these navigable waters during pipeline work.

No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to Marine Safety Unit Pittsburgh, U.S. Coast Guard. Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67. All persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and dates for this safety zone 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 the size, location, and duration of the temporary safety zone. This temporary safety zone covers a four-mile stretch of the Monongahela River for twelve hours on approximately three days. Vessel traffic will be able to safely navigate through the affected area before and after the pipeline work, and a safety vessel will coordinate vessel traffic. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners 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 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 above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 temporary safety zone that covers a four-mile stretch of the Monongahela River for twelve hours on approximately three days. 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.T08–0611 to read as follows:

§ 165.T08–0611 Safety Zone; Monongahela River mile 32.0 to 36.0, Gallatin, PA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Monongahela River from mile marker 32.0 to mile marker 36.0.

(b) *Effective period.* This section is effective without actual notice from July 2, 2018 through 6 p.m. on July 11, 2018. For the purposes of enforcement, actual notice will be used from 6 a.m. on June 27, 2018 through July 2, 2018.

(c) *Enforcement period.* The Coast Guard was informed that the pipeline removal work would take place from 6 a.m. through 6 p.m. on each of approximately three consecutive days during the effective period. The periods of enforcement will be 30 minutes prior to, during, and 1 hour after any pipeline removal work. A safety vessel will coordinate all vessel traffic during the enforcement periods. The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), and/or Marine Safety Information Bulletins (MSIBs), or through other means of public notice, as appropriate, at least 3 hours in advance of the enforcement periods.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to Marine Safety Unit Pittsburgh, U.S. Coast Guard.

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

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

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and dates for this safety zone through Broadcast Notices to Mariners

(BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: June 26, 2018.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2018–14132 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0380]

RIN 1625–AA00

Safety Zone; Willamette River, Lake Oswego, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Willamette River near Lake Oswego, OR. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display on July 4, 2018. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 9 p.m. to 11:30 p.m. on July 4, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0380 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Laura Springer, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On April 17, 2018, the City of Lake Oswego notified the Coast Guard that it will be conducting a fireworks display launched from a barge in the Willamette River approximately 150 yards east of George Rodgers Park in Lake Oswego, OR. In response, on May 29, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Willamette River, Lake Oswego, OR (83 FR 24443). 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 June 13, 2018, we received three 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 impracticable because the Coast Guard needs to have a safety zone regulation in place by July 4, 2018, to respond to the potential safety hazards associated with the fireworks display on that date.

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 Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this July 4, 2018 display will be a safety concern for anyone within a 450-yard radius of the barge. 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 three comments on our NPRM published May 29, 2018. The first comment was an email from an individual concerned with fire and health hazards associated with the fireworks display and not with the proposed safety zone. The individual was directed to contact the sponsoring organization to address those concerns. The second comment contained no suggested changes or recommendations. The third comment suggested a lack of communication with neighborhoods regarding the scope and ramifications of the river closure, and a concern with the containment of human wastes from boaters due to beach closures. As stated later in this temporary final rule, vessel traffic can request to transit through this safety zone, which will affect a limited area of the Willamette River for approximately two and a half hours during the evening when vessel traffic is normally low. This safety zone does not include any beach closures. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 9 p.m. to 11:30 p.m. on July 4, 2018. The safety zone will cover all navigable waters of the Willamette River within 450-yards of a barge located at 45°24′37.46″ N, 122°39′29.70″ W, in vicinity of George Rogers Park in Lake Oswego, OR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 p.m. to 10:30 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 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 will be able to safely transit around this safety zone which will impact a small designated area of the Willamette River for approximately two and a half hours during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 less than two and a half hours that will prohibit entry within 450-yards of a barge in the Willamette River located approximately 150 yards east of George Rodgers Park in Lake Oswego, OR. 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, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–0380 to read as follows:

§ 165.T13–0380 Safety Zone; Willamette River, Lake Oswego, OR.

(a) *Safety zone.* The following area is designated a safety zone: Waters of the Willamette River, within a 450-yard radius of the fireworks barge located at 45°24′37.46″ N, 122°39′29.70″ W in vicinity of George Rogers Park in Lake Oswego, OR.

(b) *Regulations.* In accordance with § 165.23, no person may enter or remain in this safety zone unless authorized by the Captain of the Port Columbia River or his designated representative. Also in accordance with § 165.23, no person may bring into, or allow to remain in this safety zone any vehicle, vessel, or object unless authorized by the Captain of the Port Columbia River or his designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. to 11:30 p.m. on July 4, 2018.

Dated: June 25, 2018.

D.F. Berliner,

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

[FR Doc. 2018–14142 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0587]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Reserve, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on the Lower Mississippi River between mile markers (MM) 137.5 and MM 138.5 above Head of Passes. The safety zone is needed to protect persons, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Sector New Orleans or a designated representative.

DATES: This rule is effective from 8:45 p.m. through 9:45 p.m. on July 3, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0587 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 Lieutenant Commander Howard Vacco, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2281, email *Howard.K.Vacco@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard 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 is impracticable. We must establish this safety zone by July 3, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments. The NPRM process would delay establishment of this safety zone until after the date of the fireworks 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 is contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with the 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 New Orleans (COTP) has determined that potential hazards associated with a fireworks display on July 3, 2018, will be a safety concern for anyone within a one-mile portion of the Lower Mississippi River. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is necessary to protect persons, vessels, and the marine environment before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8:45 p.m. through 9:45 p.m. on July 3, 2018. The safety zone will cover all navigable waters of the Lower Mississippi River between mile marker (MM) 137.5 and MM 138.5, above Head of Passes. The duration of the zone is intended to protect persons, vessels, and the marine environment before, during, and after the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (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 the size, location, duration, and time-of-day of the safety zone. This temporary safety zone covers a one-mile portion of the River for only one hour on one evening. Moreover, the Coast Guard will issue 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 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 this temporarysafety zone may be small

entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 temporary safety zone lasting only one hour that will prohibit entry on a one-mile portion of the Lower Mississippi River. It is categorically excluded from further review under paragraph L(60)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.T08–0587 to read as follows:

§ 165.T08–0587 Safety Zone; Lower Mississippi River, Reserve, LA.

(a) *Location.* The following area is a safety zone: All navigable waters of Lower Mississippi River between mile marker (MM) 137.5 and MM 138.5, Reserve, LA.

(b) *Effective period.* This section is effective from 8:45 p.m. through 9:45 p.m. on July 3, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port Sector New Orleans (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at (504) 365–2200.

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

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

Dated: June 25, 2018.

K.M. Luttrell,

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

[FR Doc. 2018–14178 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0483]

Safety Zones; Fourth of July Fireworks in Captain of the Port San Francisco Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port San Francisco Zone on specified dates and times. This action is necessary to ensure the safety of vessels, spectators and participants from hazards associated with fireworks. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, will be enforced on the date ranges identified in the **SUPPLEMENTARY INFORMATION** section below. The Coast Guard will provide the maritime community with extensive advance notification of the specific safety zone enforcement periods via the Local Notice to Mariners.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Emily Rowan, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.1191 on the specified date ranges as indicated in the Table below. Specific event times will be published in the Local Notice to Mariners at least 20 days prior to the date of each of the events.

TABLE 1

3. Fourth of July Fireworks, City of Eureka	
Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, Crescent City	
Sponsor	Crescent City, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Crescent City Harbor, Crescent City, CA.
Regulated Area	Crescent City Harbor in the navigable waters within a 700-foot radius of the launch platform located on the West Jetty.
6. Fourth of July Fireworks, Redwood City	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Redwood City, CA.
Regulated Area	600-foot radius around the fireworks launch platform located on the pier at the Port of Redwood City.
8. Fourth of July Fireworks, Berkeley Marina	
Sponsor	Berkeley Marina.
Event Description	Fireworks Display.
Date	July 4th.
Location	A barge located near Berkeley Pier at approximately 37°51′40″ N, 122°19′19″ W.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.
9. Fourth of July Fireworks, City of Richmond	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	A barge located in Richmond Harbor in approximate position 37°54′40″ N, 122°21′05″ W, Richmond, CA.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display.
10. Fourth of July Fireworks, City of Sausalito	
Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4th.
Location	1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
11. Fourth of July Fireworks, City of Martinez	
Sponsor	City of Martinez.
Event Description	Fireworks Display.

TABLE 1—Continued

Date	July 4th.
Location	Carquinez Strait, CA.
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located near Waterfront Park.
12. Fourth of July Fireworks, City of Antioch	
Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the moving fireworks display.
13. Fourth of July Fireworks, City of Pittsburg	
Sponsor	City of Pittsburg.
Event Description	Fireworks Display.
Date	July 4th.
Location	Suisun Bay, CA.
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located on a Pittsburg Marina Pier.
14. Delta Independence Day Celebration Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	San Joaquin River, near Mandeville Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
15. Fourth of July Fireworks, Tahoe City, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore from Common Beach, Tahoe City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
16. Fourth of July Fireworks, Glenbrook NV	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
17. Independence Day Fireworks, Kings Beach, CA	
Sponsor	North Tahoe Business Association.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off-shore from Kings Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.
18. Lights on the Lake Fourth of July Fireworks, South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552 a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 26, 2018.

Rebecca W. Deakin,

Lieutenant Commander, U.S. Coast Guard, Chief, Waterways Management Division, Sector San Francisco, By Direction.

[FR Doc. 2018–14131 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0604]

RIN 1625–AA00

Safety Zone; Atlantic Intracoastal Waterway, Surf City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the Atlantic Intracoastal Waterway near Surf City, North Carolina, in support of a fireworks display on July 3, 2018. This temporary safety zone is intended to restrict vessel traffic from a portion of the Atlantic Intracoastal Waterway during the Surf City fireworks display to protect the life and property of the maritime public and spectators from the hazards posed by aerial fireworks displays. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative.

DATES: This rule is effective from 8:45 p.m. through 9:45 p.m. on July 3, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0604 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 Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone 910–772–2221, email *Matthew.I.Tyson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The publishing of an NPRM would be impracticable and contrary to the public interest since a final rule needs to be in place by July 3, 2018, to minimize potential danger to the participants and the public during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed to protect persons and vessels from the hazards associated with this event on July 3, 2018.

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 North Carolina (COTP) has determined that potential hazards associated with the Surf City fireworks display on July 3, 2018, is a safety concern for maritime spectators during the launch of fireworks on the Atlantic Intracoastal Waterway near Surf City, North Carolina. This rule is necessary to protect persons and vessels from the potential hazards associated with the aerial fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:45 p.m. until 9:45 p.m. on July 3, 2018. The safety zone will include all navigable waters within a 100 yard radius of the fireworks launch location at approximate position: Latitude 34°25′46″ N, longitude 077°33′01″ W, on the Atlantic Intracoastal Waterway near Surf City, North Carolina. This safety zone is being established for the safety of the maritime spectators observing the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. All vessels within this safety zone when this section becomes effective must depart the zone immediately. To request permission to remain in, enter, or transit through the safety zone, vessels should contact the COTP or a designated representative of the COTP through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not

been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. The one-hour regulation enforcement period should not overly burden vessel traffic based on the short duration of the period. This safety zone will only impact a small designated area of the Atlantic Intracoastal Waterway near Surf City, NC. Additionally, the rule allows vessels to seek permission to enter the zone. The Coast Guard will issue a Broadcast Notice to Mariners to notify vessels in the region of the establishment of this regulation.

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 the precise number of small entities impacted is unknown, it is expected that the number of vessels in this portion of the Atlantic Intracoastal Waterway during the event will be low. For the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 one hour that will prohibit entry into a portion of the Atlantic Intracoastal Waterway near Surf City, NC. 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.T05–0604 to read as follows:

§ 165.T05–0604 Safety Zone, Atlantic Intracoastal Waterway, Surf City, NC.

(a) *Location.* The following area is a safety zone: All navigable waters within a 100 yard radius of the fireworks launch location at approximate position: Latitude 34°25′46″ N, longitude 077°33′01″ W, on the Atlantic Intracoastal Waterway near Surf City, North Carolina.

(b) *Definitions.* As used in this section—

Captain of the Port means the Commander, Sector North Carolina.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard commissioned,

warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

(c) *Regulations.* (1) The general regulations governing safety zones in subpart C of this part apply to the area described in paragraph (a) of this section.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's designated representative.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) To request permission to remain in, enter, or transit through the safety zone, contact the COTP North Carolina or the COTP North Carolina's representative through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: June 25, 2018.

Bion B. Stewart,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2018–14166 Filed 6–29–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0612]

RIN 1625–AA00

Safety Zone; Atlantic Intracoastal Waterway, Swansboro, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of the Atlantic Intracoastal Waterway near Swansboro, North Carolina, in support of a fireworks display on July 4, 2018. This temporary safety zone is intended to restrict vessel traffic from a portion of the Atlantic Intracoastal Waterway during the Town of Swansboro Fourth of July Celebration fireworks display to protect the life and property of the maritime public and spectators from the hazards posed by aerial fireworks displays. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative.

DATES: This rule is effective from 8:45 p.m. through 9:45 p.m. on July 4, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0612 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 Matthew Tyson, Waterways Management Division, U.S. Coast Guard Sector North Carolina, Wilmington, NC; telephone 910–772–2221, email *Matthew.I.Tyson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The publishing of an NPRM would be impracticable and contrary to the public interest since a final rule needs to be in place by July 4, 2018, to minimize potential danger to the participants and the public during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed to protect persons and vessels from the hazards associated with this event on July 4, 2018.

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 North Carolina (COTP) has determined that potential hazards associated with the Town of Swansboro Fourth of July Celebration fireworks display on July 4, 2018, is a safety concern for maritime spectators during the launch of fireworks on the Atlantic Intracoastal Waterway near Swansboro, North Carolina. This rule is necessary to protect persons and vessels from the potential hazards associated with the aerial fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:45 p.m. until 9:45 p.m. on July 4, 2018. The safety zone will include all navigable waters within a 150 yard radius of the fireworks launch location at approximate position: Latitude 34°41′02″ N, longitude 077°07′04″ W, on the Atlantic Intracoastal Waterway near Swansboro, North Carolina. This safety zone is being established for the safety of the maritime spectators observing the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. All vessels within this safety zone when this section becomes effective must depart the zone immediately. To request permission to remain in, enter, or transit through the safety zone, vessels should contact the COTP or a designated representative of the COTP through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not

been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. The one-hour regulation enforcement period should not overly burden vessel traffic based on the short duration of the period. This safety zone will only impact a small designated area of the Atlantic Intracoastal Waterway near Swansboro, NC. Additionally, the rule allows vessels to seek permission to enter the zone. The Coast Guard will issue a Broadcast Notice to Mariners to notify vessels in the region of the establishment of this regulation.

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 the precise number of small entities impacted is unknown, it is expected that the number of vessels in this portion of the Atlantic Intracoastal Waterway during the event will be low. For the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 one hour that will prohibit entry into a portion of the Atlantic Intracoastal Waterway near Swansboro, NC. 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.T05–0612 to read as follows:

§ 165.T05–0612 Safety Zone, Atlantic Intracoastal Waterway, Swansboro, NC.

(a) *Location.* The following area is a safety zone: All navigable waters within a 150 yard radius of the fireworks launch location at approximate position: Latitude 34°41′02″ N, longitude 077°07′04″ W, on the Atlantic Intracoastal Waterway near Swansboro, North Carolina.

(b) *Definitions.* As used in this section—

Captain of the Port means the Commander, Sector North Carolina.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard commissioned,

warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

(c) *Regulations.* (1) The general regulations governing safety zones in subpart C of this part apply to the area described in paragraph (a) of this section.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the COTP North Carolina or the COTP North Carolina's designated representative.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) To request permission to remain in, enter, or transit through the safety zone, contact the COTP North Carolina or the COTP North Carolina's representative through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882, or on VHF–FM marine band radio channel 13 (165.65 MHz) or channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: June 25, 2018.

Bion B. Stewart,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2018–14169 Filed 6–29–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9980–41–OAR]

RIN 2060–AT42

Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to extend the period during which certain electronic reports required by the Mercury and Air Toxics Standards (MATS) may be submitted as portable document format (PDF) files using the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool. This action will extend the end date of that period from June 30, 2018, to July 1, 2020. This extension is necessary because the electronic reporting system that owners or operators of affected MATS sources will be required to use when PDF filing is no longer allowed will not be available by June 30, 2018. This extension does not alter the responsibility of owners or operators of affected MATS sources to comply with the applicable MATS and report their compliance information to the appropriate authority. In addition, this extension ensures that the compliance information can be submitted in a timely manner and made available to the public. Finally, this rule is effective on July 1, 2018, to provide the regulated community a continuous and viable vehicle to submit compliance reports.

DATES: This final rule is effective on July 1, 2018.

ADDRESSES: *Docket:* The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2009–0234. All documents in the docket are listed on the *https://www.regulations.gov website.* Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; email address: *parker.barrett@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired EGUs.
Federal government	[2] 221122	Fossil fuel-fired EGUs owned by the Federal government.
State/local/Tribal government	[2] 221122	Fossil fuel-fired EGUs owned by municipalities.
	921150	Fossil fuel-fired EGUs in Indian country.

[1] North American Industry Classification System.

[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by

this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 63.9981 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. What action is the Agency taking?

This final action extends the period allowing owners or operators of affected sources subject to the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (commonly known as the Mercury and Air Toxics Standards (MATS)) to submit certain reports as PDF file attachments using the ECMPS Client Tool until July 1, 2020. Prior to this extension, that period was scheduled to end on June 30, 2018. As explained further below, the EPA finds that there is ''good cause'' under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)) to make the amendments extending the deadline final without prior notice and comment, in part because the rule maintains the status quo, and the reporting system that would apply without the extension (*i.e.,* the Compliance and Emissions Data Reporting Interface (CEDRI)) is currently unable to accept the MATS reports, thus, making it impossible for the regulated community to comply with all reporting requirements without this extension. Thus, as explained further below, the EPA maintains that notice and comment is unnecessary and contrary to the public interest for this action. The EPA also finds good cause under APA 553(d)(3) to make this rule effective on July 1, 2018, instead of 30 days after publication as generally required, to ensure that there are no gaps in the regulated community's ability to submit all the required reports.

C. What is the Agency's authority for taking this action?

The Agency's authority is found at 42 U.S.C. 7401 *et seq.* and 5 U.S.C. 553 *et seq.*

D. What are the incremental costs and benefits of this action?

This extension of the time period allowing temporary submission of PDF file attachments has neither costs nor benefits.

II. Supplemental Information

A. Background

On February 12, 2012, the EPA issued the final MATS (77 FR 9304; February 16, 2012). In that rule, owners or operators of coal- or oil-fired electric utility steam generating units (EGUs) were required to report emissions and compliance information electronically using two data systems: The ECMPS Client Tool and CEDRI. The two electronic reporting systems were intended to accept different MATS compliance related information (*e.g.,* the ECMPS Client Tool was to be used by EGU owners or operators to report, among other things, mercury (Hg) continuous monitoring data and the CEDRI system was to be used to submit, among other things, semiannual compliance reports). *See* 40 CFR 63.10031(a), (f).

After promulgation, but prior to the existing-source compliance date of April 16, 2015, the regulated community suggested to the EPA that the electronic reporting burden of MATS could be significantly reduced if all the required information were reported to one data system instead of two. Specifically, the regulated community suggested that the EPA amend MATS to require all the data to be reported through the ECMPS Client Tool, which is a familiar data system that most EGU owners or operators have been using since 2009 to meet the electronic reporting requirements of the Acid Rain Program.

In response, the EPA decided to require all electronic reports required by MATS to be submitted through the ECMPS Client Tool, but the Agency recognized that it could not make the necessary changes to the ECMPS Client Tool by the April 16, 2015, compliance date. For that reason, the EPA issued a final rule on March 24, 2015, prior to the MATS compliance date, revising the MATS reporting requirements (80 FR 15511; March 24, 2015). Among other things, the final rule suspended the requirement to submit to CEDRI the MATS compliance reports described in 40 CFR 63.10031(f)(1), (f)(2), and (f)(4), and instead allowed parties to submit those reports to the ECMPS Client Tool as PDF files. *See* 40 CFR 63.10031(f)(6). The EPA included a self-imposed deadline of April 17, 2017, to revise the ECMPS Client Tool to accept all of the MATS compliance information. If the revised system was not ready by that date, the rule required reporting of the MATS compliance data to revert to the original two-system approach on and after that date. *See* 40 CFR 63.10031(f).

On September 29, 2016, the EPA proposed for comment to revise MATS to require a single electronic reporting system, (*i.e.,* the ECMPS Client Tool), and also proposed to extend the PDF file reporting period from April 17, 2017, to December 31, 2017, by which date the Agency believed it would complete the necessary changes to the ECMPS Client Tool (81 FR 67062; September 29, 2016). The comment period was scheduled to close on October 31, 2016, but it was subsequently extended until November 15, 2016, in response to requests from several stakeholders for an extension. The public comments were generally supportive of simplifying and streamlining the MATS reporting requirements and to use the ECMPS Client Tool as the single electronic reporting system. However, industry commenters questioned whether the EPA would complete the changes to the ECMPS Client Tool by December 31, 2017, and suggested dates ranging from six quarters after completion of the final rule was issued to 2020. No commenters stated that the EPA should not extend the PDF file reporting period. On April 6, 2017, the EPA finalized an extension of the PDF file reporting period from April 17, 2017, to June 30, 2018, because the Agency recognized it would not complete the necessary revisions to the ECMPS Client Tool and conduct the necessary testing by the December 31, 2017, proposed extension date (82 FR 16736; April 6, 2017).[1]

The EPA continues to work on the ECMPS Client Tool, but the Agency recently concluded that the changes and necessary testing will not be completed by June 30, 2018. In addition, the CEDRI interface is not currently capable of accepting the compliance reports that are currently being submitted via PDF files to the ECMPS Client Tool. This means that EGU owners or operators would be unable to submit the required reports if PDF file reporting authority is not extended. Moreover, the CEDRI interface cannot be operational before July 1, 2018 (*i.e.,* the first date CEDRI reporting would be required absent an extension), and the EPA is continuing to change the ECMPS Client Tool to accept all of the MATS compliance reports. For these reasons, the EPA has concluded that it is reasonable to continue to allow the PDF file reporting option. This extension changes neither the responsibility of all owners or operators of affected sources to comply with the applicable MATS emissions standards and other requirements nor the compliance information available to the

[1] In addition to extending the interim PDF file submission process to June 30, 2018, the final rule also made a few technical corrections to Appendix A.

public as PDF files. For all these reasons, the EPA is revising the reporting requirements in the MATS regulations, 40 CFR 63.10021 and 63.10031, by extending the period for affected sources to submit certain compliance related information via PDF file reports from June 30, 2018, to July 1, 2020.

B. Why is the Agency taking final action without providing an opportunity for public comment?

As noted above, this action amends the reporting requirements by extending the period for affected sources to submit certain compliance related information via PDF file reports. This extension is critical because: (1) The EPA is still working to revise the ECMPS Client Tool so that it can accept all of the MATS compliance reports, and (2) the CEDRI system that would apply without this extension is not able to accept the compliance reports that are currently being submitted via PDF files. Without this action, affected source owners or operators would be unable to report certain MATS compliance information as required in the regulations and, as a result, the public would not have access to that information.

Section 553(b)(B) of the APA, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. *See also* the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(d)(1), indicating that CAA section 307(d) does not apply in the case of any rule or circumstance referred to in section 553(b)(B) of the APA. As explained further below, the EPA finds that providing notice and comment is unnecessary in this situation because the extension of PDF file reporting maintains the status quo and does not relieve the regulated community of its responsibility to comply with the MATS. In addition, when in April 2017 the EPA proposed and finalized an extension of the PDF file reporting requirement, the Agency received no comments against or legal challenge to that extension rulemaking. Finally, the EPA also finds that notice and comment rulemaking in these circumstances would be contrary to the public interest because the electronic system that would apply without the extension (*i.e.,* CEDRI) is currently unable to accept the MATS compliance reports that are currently being submitted via PDF files. Therefore, it would not be possible for affected source owners or operators to comply with all of the MATS reporting requirements without the extension and the public would be deprived of certain compliance related information as a result. The delay that would be inherent in notice and comment rulemaking would result in a potential loss of public availability of compliance information that is contrary to the public interest.

The EPA has determined that notice and comment procedures are unnecessary here for a number of reasons. First, this action will simply maintain the status quo and does not introduce any new substantive requirements.

Second, the EPA has no viable alternative to extending of PDF file reporting given that the CEDRI system is not currently able to accept the necessary reports. The EPA has concluded that the July 2020 extension date will provide the necessary time to complete the changes to and test the ECMPS Client Tool.

Third, the Agency previously provided an opportunity for comment on whether a PDF file reporting extension is justified where the electronic reporting system is not available. The Agency provided this opportunity for comment in the September 29, 2016, proposed rule (finalized April 6, 2017) to extend the PDF file reporting until June 30, 2018 (81 FR 67062; September 29, 2016 and 82 FR 16736; April 7, 2017). The EPA did not receive any comments suggesting that the extension of the PDF file reporting was unreasonable, although commenters did suggest the Agency provide more time than proposed. As a result, the Agency finalized an extension to June 30, 2018, 7 months longer than proposed, but considerably less time than suggested in comments. *See* 82 FR 16736. In this final rule, the EPA is recognizing that, as commenters in 2016 suggested, more time is needed to complete the move to the ECMPS Client Tool and that a longer extension of the PDF file reporting than the one previously afforded is appropriate.

In addition to finding that notice and comment rulemaking is unnecessary, the EPA also finds that providing notice and comment in this situation would be contrary to the public interest. If the EPA were to delay this action to provide an opportunity for public comment, there would be a gap period during which the public would not have access to all of the MATS compliance information required by the rule. As explained above, the CEDRI system is not currently capable of accepting the MATS compliance reports that parties would be required to submit to it. Thus, if the PDF file reporting extension were not provided, some MATS compliance information would not be accessible to the public for some time. In addition, EGU owners or operators, along with the public and regulatory agencies, are already familiar with the interim PDF file submission process and the EPA continues to work on the ECMPS Client Tool so that it can accept all of the MATS compliance reports. The current process of EGU owners or operators attaching PDF files when submitting reports via the ECMPS Client Tool is well understood by all parties interested in the data and ensures that all compliance data are reported. Conversely, EGU owners or operators are not familiar with CEDRI reporting for MATS, so requiring compliance with CEDRI for some interim period before the full implementation of the ECMPS Client Tool would potentially cause confusion for the regulated community and the public. The EPA maintains that, in light of these facts, it is contrary to the public interest to have an interim period during which both the EPA and EGU owners or operators would have to expend the resources and time necessary to enable partial CEDRI reporting before fully converting to the ECMPS Client Tool. For these reasons, the EPA finds that providing notice and comment in these particular circumstances would be contrary to the public interest.

For all these reasons, the EPA finds good cause exists under section 553(b)(B) of the APA to issue this final rule without prior notice and opportunity for comment.

C. Why is the Agency making this action effective on July 1, 2018?

The EPA also finds good cause to make this final rule effective on July 1, 2018. Section 553(d) of the APA, 5 U.S.C. 553(d), provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, ''except . . . as otherwise provided by the agency for good cause,'' among other exceptions. The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *FCC,* 78 F.3d 620, 630 (DC Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time

to prepare for the effective date of its ruling.'' *Gavrilovic,* 551 F.2d at 1105. The EPA has determined that it is necessary to make this final rule effective on July 1, 2018, instead of 30 days after publication in the **Federal Register**, to ensure that there are no gaps in the ability of affected MATS sources to submit the required compliance reports, given that the current authority to submit PDF file reports expires on June 30, 2018. The EPA also has determined that the owners or operators of affected MATS sources do not need time to adjust to this final action because this final rule simply maintains the status quo and does not introduce any new substantive requirements.

For these reasons, the EPA finds good cause exists under section 553(d)(3) of the APA to make this rule effective on July 1, 2018, instead of 30 days after publication in the **Federal Register**.

III. What is the scope of this amendment?

This action amends the reporting requirement in the MATS regulation, 40 CFR 63.10021 and 10031.

IV. What specific amendments to 40 CFR part 63, subpart UUUUU are made by this rule?

The interim PDF reporting process described in 40 CFR 63.10031(f) has been further extended through June 30, 2020, to allow sufficient time for software development, programming, and testing. Until then, compliance with the emissions and operating limits continues to be assessed based on the various PDF file report submittals described in 40 CFR 63.10021(e)(9) and 63.10031(f). Data are also obtained from Hg, hydrogen chloride, hydrogen fluoride, and sulfur dioxide continuous emission monitoring systems, as well as Hg sorbent trap monitoring systems, as reported through the ECMPS Client Tool.

V. Statutory and Executive Order Reviews

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

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

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

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulation and has assigned OMB Control Number 2060–0567. This action does not change the information collection requirements, and this action does not impose any new information collection burden under the PRA.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA ''good cause'' exemption under 5 U.S.C. 553(b).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. As described earlier, this action has no net regulatory burden on governments already subject to MATS. Accordingly, we have determined that this action will not result in any ''significant'' adverse economic impact for small governments.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. As described earlier, this action has no substantial direct effect on Indian tribes already subject to MATS. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action extends the deadline for interim reporting of electronic data; it does not have any impact on human health or the environment.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in sections II.B and C of this preamble, including the basis for that finding.

List of Subjects in 40 CFR Part 63

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

Dated: June 26, 2018.

E. Scott Pruitt,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

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

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

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

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

■ 2. Section 63.10021 is amended by revising paragraph (e)(9) to read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(e) * * *

(9) Report the dates of the initial and subsequent tune-ups in hard copy, as specified in 63.10031(f)(5), through June 30, 2020. On or after July 1, 2020, report the date of all tune-ups electronically, in accordance with § 63.10031(f). The tune-up report date is the date when tune-up requirements in paragraphs (e)(6) and (7) of this section are completed.

* * * * *

■ 3. Section 63.10031 is amended by revising paragraphs (f) introductory text, (f)(1), (2), (4), and (f)(6) introductory text to read as follows:

§ 63.10031 What reports must I submit and when?

* * * * *

(f) On or after July 1, 2020, within 60 days after the date of completing each performance test, you must submit the performance test reports required by this subpart to the EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*). Performance test data must be submitted in the file format generated through use of EPA's Electronic Reporting Tool (ERT) (see *https://www.epa.gov/ttn/chief/ert/index.html*). Only data collected using those test methods on the ERT website are subject to this requirement for submitting reports electronically to WebFIRE. Owners or operators who claim that some of the information being submitted for performance tests is confidential business information (CBI) must submit a complete ERT file including information claimed to be CBI on a compact disk or other commonly used electronic storage media (including, but not limited to, flash drives) to EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to EPA via CDX as described earlier in this paragraph. At the discretion of the delegated authority, you must also submit these reports, including the confidential business information, to the delegated authority in the format specified by the delegated authority.

(1) On or after July 1, 2020, within 60 days after the date of completing each CEMS (SO_2, PM, HCl, HF, and Hg) performance evaluation test, as defined in § 63.2 and required by this subpart, you must submit the relative accuracy test audit (RATA) data (or, for PM CEMS, RCA and RRA data) required by this subpart to EPA's WebFIRE database by using CEDRI that is accessed through EPA's CDX (*https://cdx.epa.gov*). The RATA data shall be submitted in the file format generated through use of EPA's Electronic Reporting Tool (ERT) (*https://www.epa.gov/ttn/chief/ert/index.html*). Only RATA data compounds listed on the ERT website are subject to this requirement. Owners or operators who claim that some of the information being submitted for RATAs is confidential business information (CBI) shall submit a complete ERT file including information claimed to be CBI on a compact disk or other commonly used electronic storage media (including, but not limited to, flash drives) by registered letter to EPA and the same ERT file with the CBI omitted to EPA via CDX as described earlier in this paragraph. The compact disk or other commonly used electronic storage media shall be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. At the discretion of the delegated authority, owners or operators shall also submit these RATAs to the delegated authority in the format specified by the delegated authority. Owners or operators shall submit calibration error testing, drift checks, and other information required in the performance evaluation as described in § 63.2 and as required in this chapter.

(2) On or after July 1, 2020, for a PM CEMS, PM CPMS, or approved alternative monitoring using a HAP metals CEMS, within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st, you must submit quarterly reports to the EPA's WebFIRE database by using the CEDRI that is accessed through the EPA's CDX (*https://cdx.epa.gov*). You must use the appropriate electronic reporting form in CEDRI or provide an alternate electronic file consistent with EPA's reporting form output format. For each reporting period, the quarterly reports must include all of the calculated 30-boiler operating day rolling average values derived from the CEMS and PM CPMS.

* * * * *

(4) On or after July 1, 2020, submit the compliance reports required under paragraphs (c) and (d) of this section and the notification of compliance status required under § 63.10030(e) to the EPA's WebFIRE database by using the CEDRI that is accessed through the EPA's CDX (*https://cdx.epa.gov*). You must use the appropriate electronic reporting form in CEDRI or provide an alternate electronic file consistent with EPA's reporting form output format.

* * * * *

(6) Prior to July 1, 2020, all reports subject to electronic submittal in paragraphs (f) introductory text, (f)(1), (2), and (4) of this section shall be submitted to the EPA at the frequency specified in those paragraphs in electronic portable document format (PDF) using the ECMPS Client Tool. Each PDF version of a submitted report must include sufficient information to assess compliance and to demonstrate that the testing was done properly. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

* * * * *

[FR Doc. 2018–14308 Filed 6–29–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; FCC 18–37]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Technical amendments.

SUMMARY: This document corrects errors in the rules that increase the amount of

operating costs that carriers that predominately serve Tribal lands can recover from the universal service fund (USF) in recognition that they are likely to have higher costs than carriers not serving Tribal lands. The rules published in the **Federal Register** on May 1, 2018.

DATES: Effective July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Wireline Competition Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Erratum, released on June 7, 2018. This summary contains technical amendments to the Commission's rules that were published in the **Federal Register** at 83 FR 18948 (May 1, 2018). The full text of the Commission's Report and Order, WC Docket No. 10–90; FCC 18–37, released on April 5, 2018 is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554.

In the document published in the **Federal Register** at 83 FR 18948 (May 1, 2018), amendatory instruction 2 erroneously added text as paragraph (a)(6) to § 54.303. The Commission's intent was to add the text as paragraph (a)(7) to the section. This document corrects that error.

Technical Amendments

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

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. In § 54.303, add paragraph (a)(7) to read as follows:

§ 54.303 Eligible Capital Investment and Operating Expenses.

(a) * * *

(7) For those study areas where a majority of the housing units are on Tribal lands, as determined by the Wireline Competition Bureau, and meet the following conditions, total eligible annual operating expenses per location shall be limited by calculating Exp (Ŷ + 2.5 * mean square error of the regression): The carrier serving the study area has not deployed broadband service of 10 Mbps download/1 Mbps upload to 90 percent or more of the housing units on the Tribal lands in its study area and unsubsidized competitors have not deployed broadband service of 10 Mbps download/1 Mbps upload to 85 percent or more of the housing units on the Tribal lands in its study area.

* * * * *

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–14149 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

Universal Service

CFR Correction

■ In Title 47 of the Code of Federal Regulations, Parts 40 to 69, revised as of October 1, 2017, on page 206, in § 54.507, the second paragraph (f) is removed.

[FR Doc. 2018–14186 Filed 6–29–18; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120627194–3657–02]

RIN 0648–XG167

Atlantic Highly Migratory Species; North Atlantic Swordfish Fishery

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

ACTION: Temporary rule.

SUMMARY: NMFS is adjusting the Swordfish (SWO) General Commercial permit retention limits for the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions for July through December of the 2018 fishing year, unless otherwise later noticed. The SWO General Commercial permit retention limit in each of these regions is increased from the regulatory default limits (either two or three fish) to six swordfish per vessel per trip. The SWO General Commercial permit retention limit in the Florida SWO Management Area will remain unchanged at the default limit of zero swordfish per vessel per trip, as discussed in more detail below. These adjustments apply to SWO General Commercial permitted vessels and to Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial endorsement when on a non-for-hire trip. This action is based upon consideration of the applicable inseason regional retention limit adjustment criteria.

DATES: The adjusted SWO General Commercial permit retention limits in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions are effective from July 1, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Rick Pearson or Randy Blankinship, 727–824–5399.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of North Atlantic swordfish by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. North Atlantic swordfish quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and implemented by the United States into two equal semi-annual directed fishery quotas—an annual incidental catch quota for fishermen targeting other species or catching swordfish recreationally, and a reserve category, according to the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated Atlantic HMS FMP) (71 FR 58058, October 2, 2006), as amended, and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

In 2017, ICCAT Recommendation 17–02 specified that the overall North Atlantic swordfish total allowable catch (TAC) be set at 9,925 metric tons (mt) dressed weight (dw) (13,200 mt whole weight (ww)) through 2021. Consistent with scientific advice, this was a reduction of 500 mt ww (375.9 mt dw) from previous ICCAT-recommended TACs. However, of this TAC, the United States' baseline quota remained at 2,937.6 mt dw (3,907 mt ww) per year. The Recommendation (17–02) also continued to limit underharvest

carryover to 15 percent of a contracting party's baseline quota. Thus, the United States may carry over a maximum of 440.6 mt dw (586.0 mt ww) of underharvest. Absent adjustments, the codified baseline quota is 2,937.6 mt dw for 2018. At this time, given the extent of underharvest in 2017, NMFS anticipates carrying over the maximum allowable 15 percent (440.6 mt dw), which would result in a final adjusted North Atlantic swordfish quota for the 2018 fishing year equal to 3,378.2 mt dw (2,937.6 + 440.6 = 3,378.2 mt dw). As in past years we anticipate allocating 50 mt dw from the adjusted quota to the Reserve category for inseason adjustments/research and allocating 300 mt dw to the Incidental category, which includes recreational landings and landings by incidental swordfish permit holders, consistent with § 635.27(c)(1)(i)(D) and (B). This would result in an adjusted quota of 3,028.2 mt dw for the directed fishery, which would be split equally (1,514.1 mt dw) between the two semi-annual periods in 2018 (January through June, and July through December). Landings attributable to the Swordfish General Commercial permit will count against the applicable semi-annual directed fishery quota.

Adjustment of SWO General Commercial Permit Vessel Retention Limits

The 2018 North Atlantic swordfish fishing year, which is managed on a calendar-year basis and divided into two equal semi-annual quotas for the directed fishery, began on January 1, 2018. Landings attributable to the SWO General Commercial permit are counted against the applicable semi-annual directed fishery quota. Regional default retention limits for this permit have been established and are automatically effective from January 1 through December 31 each year, unless changed based on the inseason regional retention limit adjustment criteria at § 635.24(b)(4)(iv). The default retention limits established for the SWO General Commercial permit are: (1) Northwest Atlantic region—three swordfish per vessel per trip; (2) Gulf of Mexico region—three swordfish per vessel per trip; (3) U.S. Caribbean region—two swordfish per vessel per trip; and, (4) Florida SWO Management Area—zero swordfish per vessel per trip. The default retention limits apply to SWO General Commercial permitted vessels and to HMS Charter/Headboat permitted vessels with a commercial endorsement when fishing on non for-hire trips. As a condition of these permits, vessels may not possess, retain, or land any more swordfish than is specified for the region in which the vessel is located.

Under § 635.24(b)(4)(iii), NMFS may increase or decrease the SWO General Commercial permit vessel retention limit in any region within a range from zero to a maximum of six swordfish per vessel per trip. Any adjustments to the retention limits must be based upon a consideration of the relevant criteria provided in § 635.24(b)(4)(iv), which include: (A) The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock; (B) the estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year; (C) the estimated amounts by which quotas for other categories of the fishery might be exceeded; (D) effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments; (E) variations in seasonal distribution, abundance, or migration patterns of swordfish; (F) effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and, (G) review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

NMFS has considered these criteria as discussed below and their applicability to the SWO General Commercial permit retention limit in all regions for July through December of the 2018 North Atlantic swordfish fishing year. We have determined that the SWO General Commercial permit retention limits in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions applicable to persons issued a SWO General Commercial permit or HMS Charter/Headboat permit with a commercial endorsement (when on a non for-hire trip) should be increased from the default levels that would otherwise automatically become effective on July 1, 2018, to six swordfish per vessel per trip from July 1 through December 31, 2018, unless otherwise later noticed. These are the same limits that were made effective through an inseason adjustment for the period January 1 through June 30, 2018 (82 FR 58761). Given the rebuilt status of the stock and the availability of quota, increasing the Swordfish General Commercial permit retention limits in three regions to six fish per vessel per trip will increase the likelihood that directed swordfish landings will approach, but not exceed, the available annual swordfish quota, and increase the opportunity for catching swordfish during the 2018 fishing year.

Last year, a six swordfish per vessel trip limit was in effect for Swordfish General Commercial permit holders in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions for the entire 2017 fishing season. This limit resulted in total annual directed swordfish landings of approximately 901.0 mt dw, or 29.9 percent of the 3,009.4 mt dw annual adjusted directed quota for 2017. With a six fish retention limit in effect during the first semi-annual directed quota period in 2018, total directed swordfish landings through April 30, 2018, are approximately 209.6 mt dw, or 15.9 percent of the 1,318.8 mt dw semi-annual baseline directed swordfish quota.

Among the regulatory criteria for inseason adjustments to retention limits, and given the rebuilt status of the stock and availability of quota, is the requirement that NMFS consider the ''effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments.'' See § 635.24(b)(4)(iv)(D). One consideration in deciding whether to increase the retention limit, in this case, is the objective of providing opportunities to harvest the full North Atlantic directed swordfish quota without exceeding it based upon the 2006 Consolidated Atlantic HMS FMP goal to, consistent with other objectives of this FMP, ''manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems''. This action will help preserve a traditional swordfish handgear fishery (rod and reel, handline, harpoon, bandit gear, and greenstick). Although this action does not specifically provide recreational fishing opportunities, it will have a minimal impact on the recreational sector because recreational landings are counted against a separate incidental swordfish quota.

NMFS has examined dealer reports and landing trends and determined that the information obtained from biological sampling and monitoring of the North Atlantic swordfish stock is useful. See § 635.24(b)(4)(iv)(A). Regarding the estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year, § 635.24(b)(4)(iv)(B), NMFS reviewed accurate and timely electronic dealer landings data, which indicates that sufficient directed swordfish quota will be available for the July through December 2018 semi-

annual quota period if recent swordfish landing trends continue. The directed swordfish quota has not been harvested for several years and, based upon current landing trends, is not likely to be harvested or exceeded in 2018. Based upon recent landings rates from dealer reports, an increase in the vessel retention limits to six fish for Swordfish General Commercial permit holders in three regions is not likely to cause quotas for other categories of the fishery to be exceeded. See § 635.24(b)(4)(iv)(C). Similarly, regarding the criteria about the effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota, § 635.24(b)(4)(iv)(F), we expect there to be sufficient swordfish quota for the entirety of the 2018 fishing year, and thus increased catch rates in these three regions as a result of this action would not be expected to preclude vessels in the other region (*e.g.,* the buoy gear fishery in the Florida SWO Management Area) from having a reasonable opportunity to harvest a portion of the overall swordfish quota.

In making adjustments to the retention limits NMFS must also consider variations in seasonal distribution, abundance, or migration patterns of swordfish, and the availability of swordfish on the fishing grounds. See § 635.24(b)(4)(iv)(G). With regard to swordfish abundance, the 2017 report by ICCAT's Standing Committee on Research and Statistics indicated that the North Atlantic swordfish stock is not overfished (B_{2015}/B_{msy} = 1.04), and overfishing is not occurring (F_{2015}/F_{msy} = 0.78). Increasing retention limits for the General Commercial directed fishery is not expected to affect the swordfish stock status determination because any additional landings would be within the ICCAT-recommended U.S. North Atlantic swordfish quota allocation, which is consistent with conservation and management measures to prevent overfishing on the stock. Increasing opportunities by increasing retention limits from the default levels beginning on July 1, 2018, is also important because of the migratory nature and seasonal distribution of swordfish. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for swordfish may be constrained by the short amount of time the swordfish are present as they migrate.

Finally, another consideration, consistent with the FMP and its amendments, is to continue to provide protection to important swordfish juvenile areas and migratory corridors. Therefore, NMFS has determined that the retention limit for the SWO General Commercial permit will remain at zero swordfish per vessel per trip in the Florida SWO Management Area at this time. As discussed above, NMFS considered consistency with the 2006 HMS FMP and its amendments, and the importance for NMFS to continue to provide protection to important swordfish juvenile areas and migratory corridors. As described in Amendment 8 to the 2006 Consolidated Atlantic HMS FMP (78 FR 52012), the area off the southeastern coast of Florida, particularly the Florida Straits, contains oceanographic features that make the area biologically unique. It provides important juvenile swordfish habitat, and is essentially a narrow migratory corridor containing high concentrations of swordfish located in close proximity to high concentrations of people who may fish for them. Public comment on Amendment 8, including from the Florida Fish and Wildlife Conservation Commission, indicated concern about the resultant high potential for the improper rapid growth of a commercial fishery, increased catches of undersized swordfish, the potential for larger numbers of fishermen in the area, and the potential for crowding of fishermen, which could lead to gear and user conflicts. These concerns remain valid. NMFS will continue to collect information to evaluate the appropriateness of the retention limit in the Florida SWO Management Area and other regional retention limits. This action therefore maintains a zero-fish retention limit in the Florida Swordfish Management Area.

The directed swordfish quota has not been harvested for several years and, based upon current landing trends, is not likely to be harvested or exceeded during 2018. This information indicates that sufficient directed swordfish quota should be available from July 1 through December 31, 2018, at the higher retention levels, within the limits of the scientifically-supported TAC and consistent with the goals of the 2006 Consolidated Atlantic HMS FMP as amended, ATCA, and the Magnuson-Stevens Act, and are not expected to negatively impact stock health.

Monitoring and Reporting

NMFS will continue to monitor the swordfish fishery closely during 2018 through mandatory landings and catch reports. Dealers are required to submit landing reports and negative reports (if no swordfish were purchased) on a weekly basis.

Depending upon the level of fishing effort and catch rates of swordfish, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure that the available quota is not exceeded or to enhance fishing opportunities. Subsequent actions, if any, will be published in the **Federal Register**. In addition, fishermen may access *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/2018-atlantic-swordfish-landings-updates* for updates on quota monitoring.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated Atlantic HMS FMP, as amended, provide for inseason retention limit adjustments to respond to changes in swordfish landings, the availability of swordfish on the fishing grounds, the migratory nature of this species, and regional variations in the fishery. Based on available swordfish quota, stock abundance, fishery performance in recent years, and the availability of swordfish on the fishing grounds, among other considerations, adjustment to the SWO General Commercial permit retention limits from the default levels of two or three fish to six SWO per vessel per trip as discussed above is warranted, while maintaining the default limit of zero-fish retention in the Florida SWO Management Area. Analysis of available data shows that adjustment to the swordfish retention limit from the default levels would result in minimal risk of exceeding the ICCAT-allocated quota.

NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the ''News and Announcements'' website at *https://www.fisheries.noaa.gov/news-and-announcements* (filter by ''Atlantic Highly Migratory Species'' under ''Topic''). Delays in temporarily increasing these retention limits caused by the time required to publish a proposed rule and accept public comment would adversely and unnecessarily affect those SWO General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial endorsement that would otherwise have an opportunity to harvest more than the otherwise applicable lower default retention limits

of three swordfish per vessel per trip in the Northwest Atlantic and Gulf of Mexico regions, and two swordfish per vessel per trip in the U.S. Caribbean region. Limiting opportunities to harvest available directed swordfish quota may have negative social and economic impacts for U.S. fishermen. Adjustment of the retention limits needs to be effective on July 1, 2018, to allow SWO General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial endorsement to benefit from the adjustment during the relevant time period, which could pass by for some fishermen, particularly in the Northwest Atlantic region who have access to the fishery during a short time period because of seasonal fish migration, if the action is delayed for notice and public comment. Furthermore, the public was given an opportunity to comment on the underlying rulemakings, including the adoption of the North Atlantic swordfish U.S. quota, and the retention limit adjustments in this action would not have any additional effects or impacts since the retention limit does not affect the overall quota. Thus, there would be little opportunity for meaningful input and review with public comment on this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.24(b)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 26, 2018.

Margo B. Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14116 Filed 6–27–18; 11:15 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XG318

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine Haddock Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Gulf of Maine Haddock Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The closure is required because the common pool fishery is projected to have caught over 90 percent of its Trimester 1 quota for Gulf of Maine haddock. This closure is intended to prevent an overage of the common pool's quota for this stock.

DATES: This action is effective June 29, 2018, through August 31, 2018.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281–9232.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock, and remains in effect for the remainder of the trimester. During the closure, common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from the Trimester TAC Area for the stock.

The Trimester 1 TAC for Gulf of Maine (GOM) haddock is 26.3 mt (57,982 lb). Based on catch data through June 17, 2018, the common pool fishery is projected to have caught 29.4 mt (64,792 lb) of GOM haddock, or 112 percent of the Trimester 1 TAC. Effective June 29, 2018, the GOM Haddock Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2018. The GOM Haddock Trimester TAC Area consists of statistical areas 513, 514, and 515. During the closure, common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from this area. The area reopens at the beginning of Trimester 2 on September 1, 2018.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to June 29, 2018, it may complete its trip within the GOM Haddock Trimester TAC Area. A vessel that has set its sink gillnet gear prior to June 29, 2018, may complete its trip by hauling such gear.

If the common pool fishery exceeds its total quota for a stock in the 2018 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2019. Weekly quota monitoring reports for the common pool fishery are on our website at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information through June 17, 2018, only recently became available indicating that the common pool fishery is projected to have caught 112 percent of its Trimester 1 TAC for GOM haddock. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GOM Haddock Trimester TAC Area. This would be contrary to the regulatory requirement and would increase the magnitude of the Trimester 1 closure and the likelihood that the common pool fishery would exceed its annual quota of GOM haddock. Any overage of the Trimester 1 or Trimester 2 TACs are deducted from the Trimester 3 TAC, and any

overage of the annual quota would be deducted from common pool's quota for the next fishing year, to the detriment of this stock. This could undermine conservation and management objectives of the Northeast Multispecies Fishery Management Plan. Fishermen expect these closures to occur in a timely way to prevent overages and their payback requirements. Overages of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 27, 2018.

Margo B. Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14185 Filed 6–29–18; 8:45 am]

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Proposed Rules

Federal Register
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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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2018–0166; FRL–9976–04]

RIN 2070–AJ82

Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Addressing childhood lead exposure is a priority for EPA. As part of EPA's efforts to reduce childhood lead exposure, EPA evaluated the current dust-lead hazard standards (DLHS) and the definition of lead-based paint (LBP). Based on this evaluation, EPA is proposing to lower the DLHS from 40 µg/ft² and 250 µg/ft² to 10 µg/ft² and 100 µg/ft² on floors and window sills, respectively. EPA is proposing no changes to the current definition of LBP due to insufficient information to support such a change.

DATES: Comments must be received on or before August 16, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0166, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* John Yowell, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–1213; email address: *yowell.john@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you conduct LBP activities in accordance with 40 CFR 745.227, if you operate a training program required to be accredited under 40 CFR 745.225, if you are a firm or individual who must be certified to conduct LBP activities in accordance with 40 CFR 745.226, or if you conduct rehabilitations in accordance with 24 CFR 35. You may also be affected by this action, in accordance with 40 CFR 745.107, as the seller or lessor of target housing, which is most pre-1978 housing. See 40 CFR 745.103. For further information regarding the authorization status of States, territories, and Tribes, contact the National Lead Information Center at 1–800–424–LEAD (5323). The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Building construction (NAICS code 236), *e.g.,* single-family housing construction, multi-family housing construction, residential remodelers.
- Specialty trade contractors (NAICS code 238), *e.g.,* plumbing, heating, and air-conditioning contractors, painting and wall covering contractors, electrical contractors, finish carpentry contractors, drywall and insulation contractors, siding contractors, tile and terrazzo contractors, glass and glazing contractors.
- Real estate (NAICS code 531), *e.g.,* lessors of residential buildings and dwellings, residential property managers.
- Child day care services (NAICS code 624410).
- Elementary and secondary schools (NAICS code 611110), *e.g.,* elementary schools with kindergarten classrooms.
- Other technical and trade schools (NAICS code 611519), *e.g.,* training providers.
- Engineering services (NAICS code 541330) and building inspection services (NAICS code 541350), *e.g.,* dust sampling technicians.
- Lead abatement professionals (NAICS code 562910), *e.g.,* firms and supervisors engaged in LBP activities.
- Federal agencies that own residential property (NAICS code 92511, 92811).
- Property owners, and property owners that receive assistance through Federal housing programs (NAICS code 531110, 531311).

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

EPA is proposing this rule under sections 401, 402, 403, and 404 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* as amended by Title X of the Housing and Community Development Act of 1992 (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or ''Title X'') (Pub. L. 102–550) (Ref. 1). TSCA section 403 (15 U.S.C. 2683) mandates EPA to identify LBP hazards for purposes of administering Title X and TSCA Title IV. Under TSCA section 401 (15 U.S.C. 2681), LBP hazards are defined as conditions of LBP and lead-contaminated dust and soil that ''would result in adverse human health effects,'' and lead-contaminated dust is defined as ''surface dust in residential dwellings'' that contains lead in excess of levels determined ''to pose a threat of adverse health effects. . . .'' As defined in TSCA section 401 (15 U.S.C. 2681(9)), LBP means:

''paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings on target housing, such lower level as may be established by the Secretary of [HUD], as defined in section 4822(c) of Title 42, or (B) in the case of any other paint or

surface coatings, such other level as may be established by the Administrator [of EPA].''

The amendments to the regulations on LBP activities are being proposed pursuant to TSCA section 402 (15 U.S.C 2682). The amendments to the regulations on the authorization of State and Tribal Programs are being proposed pursuant to TSCA section 404 (15 U.S.C. 2684).

This proposed rule is being issued in compliance with the December 27, 2017 decision (''Opinion'') of the Ninth Circuit Court of Appeals, and the subsequent March 26, 2018 order that directed the EPA ''to issue a proposed rule within ninety (90) days from the filed date of this order'' (Ref. 2) (Ref. 3).

C. What action is the Agency taking?

EPA established dust-lead hazard standards (DLHS) of 40 μg/ft² for floors and 250 μg/ft² for window sills in a final rule entitled, ''Identification of Dangerous Levels of Lead.'' See 66 FR 1206, January 5, 2001, also known as the LBP Hazards Rule (Ref. 4). EPA is proposing to amend the DLHS set by the LBP Hazards Rule to lower the DLHS for floor dust to 10 μg/ft² and to lower the DLHS for window sill dust to 100 μg/ft². EPA is requesting comment on the achievability and appropriateness of the proposed DLHS. EPA is requesting comments on all aspects of this proposal, including any options presented in EPA's Technical Support Document that accompanies this proposal (Ref. 5), including taking comment on keeping the DLHS at the current levels.

EPA and HUD adopted the statutory definition of LBP in a joint final rule entitled, ''Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing.'' See 61 FR 9064, March 6, 1996, also known as the Disclosure Rule (Ref. 6). EPA is proposing no changes to the current definition of LBP due to insufficient information to support such a change.

D. Why is the Agency taking this action?

Reducing childhood lead exposure is an EPA priority, and EPA is collaborating with our federal partners to reduce lead exposures and to explore ways to increase our relationships and partnerships with States, Tribes, and localities. EPA Administrator Scott Pruitt hosted a meeting of principals from the 17 federal departments and agencies on the President's Task Force on Environmental Health Risks and Safety Risks to Children in February 2018. At the meeting, the Task Force members committed to make addressing childhood lead exposure a priority and to develop a federal strategy to reduce childhood lead exposures. Today's proposal is a component of EPA's prioritizing the important issue of childhood lead exposure.

In the 2001 final rule that set the initial hazard standards under TSCA section 403, EPA examined the health effects of various dust-lead loadings, and analyzed those values against issues of practicality to determine the appropriate standards, in accordance with the statute. At that time, the Centers for Disease Control and Prevention (CDC) identified a test result of 10 μg/dL of lead in blood or higher in children as a ''level of concern''. Based on the available science at the time, EPA explained that health effects at blood lead levels (BLLs) lower than 10 μg/dL were ''less well substantiated.'' Further, the Agency acknowledged that the standards were ''based on the best science available to the Agency,'' and if new data were to become available, EPA would ''consider changing the standards to reflect these data.'' (Ref. 4)

New data have become available since the 2001 final rule that indicates that health risks exist at lower BLLs than previously recognized. The CDC now considers that no safe BLL in children has been identified (Ref. 7), and is no longer using the term ''level of concern'' and is instead using the reference value to identify children who have been exposed to lead and who should undergo case management (Ref. 7). In 2012, CDC established a blood lead ''reference level'' as a benchmark for case management (especially assessment of sources of lead in their environment and follow up BLL testing). The reference level is based on the 97.5th percentile of the U.S. population distribution of BLLs in children ages 1–5 from the 2007–2008 and 2009–2010 National Health and Nutrition Examination Surveys (Ref. 8).

Current best available science, which, as indicated above, has evolved considerably since 2001, informs EPA's understanding of the relationship between exposures to dust-lead loadings, blood lead levels, and risk of adverse human health effects. This is summarized in the Integrated Science Assessment for Lead, (''Lead ISA'') (Ref. 9), which EPA released in June 2013, and the National Toxicology Program (NTP) Monograph on the Health Effects of Low-Level Lead, which was released by the Department of Human Health and Services in June 2012 (Ref. 10). The Lead ISA is a synthesis and evaluation of policy-relevant science and includes an analysis of the health effects of BLLs lower than 10 μg/dL. These effects include cognitive function decrements in children (Ref. 9).

The NTP, in 2012, completed an evaluation of existing data to summarize the scientific evidence regarding health effects associated with low-level lead exposure as indicated by BLLs less than 10 μg/dL. The evaluation specifically focused on the life stage (childhood, adulthood) associated with these health effects, as well as on epidemiological evidence at BLLs less than 10 μg/dL, because health effects at higher BLLs are well-established. The NTP concluded that there is sufficient evidence for adverse health effects in children and adults at BLLs less than 10 μg/dL, and less than 5 μg/dL. In children, there is sufficient evidence that BLLs less than 5 μg/dL are associated with increased diagnoses of attention-related behavioral problems, greater incidence of problem behaviors, and decreased cognitive performance. There is limited evidence that BLLs less than 5 μg/dL are associated with delayed puberty and decreased kidney function in children 12 years of age and older. Additionally, the NTP concluded that there is sufficient evidence that BLLs less than 10 μg/dL are associated with delayed puberty, decreased hearing, and reduced post-natal growth (Ref. 10).

Since 2001, EPA has worked collaboratively with other federal partners to promote further understanding of the technical aspects of rules in place to reduce exposures to dangerous levels of lead. EPA collaborated with HUD to develop the Lead Hazard Control Clearance Survey to examine whether HUD's Office of Lead Hazard Control and Healthy Homes (OLHCHH) Lead Hazard Control (LHC) grantees could achieve dust-lead clearance levels below the current standards. Although this proposed rule does not address clearance levels directly, EPA intends to review the clearance levels at a later date. The survey is still important to this rulemaking because EPA does not want to set a standard that cannot be reliably achieved using existing technology. The survey concluded that ''a reduction in the federal clearance standard for floors from 40 μg/ft² to 10 μg/ft², [and] a reduction in the federal clearance standard for windowsills from 250 μg/ft² to 100 μg/ft² . . . are all technically feasible using the methods currently employed by OLHCHH LHC grantees to prepare for clearance.'' The survey was completed in October 2015 (Ref. 11).

E. What are the estimated incremental impacts of this action?

EPA has prepared an Economic Analysis (EA) of the potential

incremental impacts associated with this rulemaking (Ref. 12) on a subset of target housing and child-occupied facilities, which is available in the docket. The analysis estimates incremental costs and benefits for two categories of events: (1) Where dust-lead testing occurs to comply with HUD's Lead-Safe Housing Rule and (2) where dust-lead testing occurs in response to testing that detects an elevated blood lead level in a child. The following is a brief outline of the estimated incremental impacts of this rulemaking.

- *Benefits.* This rule would reduce exposure to lead, resulting in benefits from avoided adverse health effects. For the subset of adverse health effects where the results were quantified, the estimated annualized benefits are $317 million to $2.24 billion per year using a 3% discount rate, and $68 million to $479 million using a 7% discount rate. There are additional unquantified benefits due to other avoided adverse health effects in children, including attention-related behavioral problems, greater incidence of problem behaviors, decreased cognitive performance, reduced post-natal growth, delayed puberty and decreased kidney function (Ref. 10).
- *Costs.* This rule is estimated to result in costs of $66 million to $119 million per year.
- *Small entity impacts.* This rule would impact 39,000 to 44,000 small businesses; 38,000 to 42,000 have cost impacts less than 1% of revenues, 1,000 to 2,000 have impacts between 1% and 3%, and approximately 100 have impacts greater than 3% of revenues.
- *Environmental Justice and Protection of Children.* This rule would increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population or children.
- *Effects on State, local, and Tribal governments.* The rule would not have any significant or unique effects on small governments, or Federalism or Tribal implications.

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

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Health Effects

Lead exposure impacts individuals of all ages, but it is especially harmful to children (Ref. 13) (Ref. 14) (Ref. 15). Ingestion of lead-contaminated soil and dust is a major contributor to BLLs in children (Ref. 16) (Ref. 17). Infants and young children can be more highly exposed to lead because they often put their hands and other objects that can have lead from dust or soil on them into their mouths (Ref. 15). As mentioned elsewhere in this proposal, data evaluated by the NTP demonstrates that there is sufficient evidence to conclude that there are adverse health effects associated with low-level lead exposure; there is sufficient evidence that, in children, BLLs less than 5 μg/dL are associated with increased diagnoses of attention-related behavioral problems, greater incidence of problem behaviors, and decreased cognitive performance (Ref. 10). For further information about health effects and lead exposure, see the Lead ISA (Ref. 9).

B. Federal Actions To Reduce Lead Exposures

In 1992, Congress enacted Title X of the Housing and Community Development Act (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or Title X) (Ref. 1) in an effort to eliminate LBP hazards. Section 1018 of Title X required EPA and HUD to promulgate joint regulations for disclosure of any known LBP or any known LBP hazards in target housing offered for sale or lease (known as the Disclosure Rule) (Ref. 6). (''Target housing'' is defined in section 401(17) of TSCA, 15 U.S.C. 2681(17)). On March 6, 1996, the Disclosure Rule was codified at 40 CFR 745, subpart F, and requires information disclosure activities before a purchaser or lessee is obligated under a contract to purchase or lease target housing.

Title X amended TSCA to add a new subchapter entitled ''Title IV—Lead Exposure Reduction.'' As defined in TSCA section 401 (15 U.S.C. 2681(9)), LBP means:

> ''paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings on target housing, such lower level as may be established by the Secretary of [HUD], as defined in section 4822(c) of Title 42, or (B) in the case of any other paint or surface coatings, such other level as may be established by the Administrator [of EPA].''

This definition was codified as part of the Disclosure Rule (Ref. 6) at 40 CFR 745, subpart F, and as part of the Lead-based Paint Activities Rule (Ref. 18) at 40 CFR 745, subpart L.

TSCA section 402(a) directs EPA to promulgate regulations covering LBP activities to ensure persons performing these activities are properly trained, that training programs are accredited, and that contractors performing these activities are certified. On August 29, 1996, EPA promulgated final regulations under TSCA section 402(a) that govern LBP inspections, risk assessments, and abatements in target housing and child-occupied facilities (COFs) (also referred to as the LBP Activities Rule, codified at 40 CFR 745, subpart L) (Ref. 18). The definition of ''child-occupied facility'' is codified at 40 CFR 745.223 for purposes of LBP activities. Regulations promulgated under TSCA section 402(a) contain standards for performing LBP activities, taking into account reliability, effectiveness, and safety.

TSCA section 402(c)(3) directs EPA to promulgate regulations covering renovation or remodeling activities in target housing, public buildings constructed before 1978, and

commercial buildings that create LBP hazards. EPA promulgated final regulations for target housing and COFs in the Lead Renovation, Repair and Painting Rule, under TSCA section 402(c)(3) on April 22, 2008 (also referred to as the RRP Rule, codified at 40 CFR 745, subpart E) (Ref. 19). The rule was amended in 2010 (75 FR 24802) (Ref. 20) to eliminate a provision for contractors to opt-out of prescribed work practices and in 2011 (76 FR 47918) (Ref. 21) to affirm the work practice requirements for cleaning verification of renovated or repaired spaces, among other things. For further information regarding lead and its health effects, and federal actions taken to eliminate LBP hazards in housing, see the background section of the RRP Rule.

TSCA section 403 is a related authority to carry out responsibilities for addressing LBP hazards under the Disclosure and LBP Activities Rules. Section 403 required EPA to promulgate regulations that ''identify . . . lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil'' for purposes of TSCA Title IV and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LBP hazards, under TSCA section 401, are defined as conditions of LBP and lead-contaminated dust and soil that ''would result'' in adverse human health effects (15 U.S.C. 2681(10)). TSCA section 401 defines lead-contaminated dust as ''surface dust in residential dwellings'' that contains lead in excess of levels determined ''to pose a threat of adverse health effects'' (15 U.S.C. 2681(11)). On January 5, 2001, EPA promulgated a final rule under TSCA sections 402 and 403 called the LBP Hazards Rule (Ref. 4). The standards established under TSCA section 403 are used to calibrate activities carried out under TSCA section 402. As such, the utility of these standards should be considered in the context of the activities to which they are applied.

Pursuant to TSCA section 404, provisions were made for interested States, territories, and Tribes to apply for and receive authorization to administer their own LBP Activities and RRP programs. Requirements applicable to State, territorial, and Tribal programs are codified in 40 CFR 745, subpart Q. As stated elsewhere in this document, EPA's regulations are intended to reduce exposures and to identify and mitigate hazardous levels of lead. Authorized programs must be ''at least as protective of human health and the environment as the corresponding Federal program,'' and must provide for ''adequate enforcement.'' See 40 CFR 745.324(e)(2).

HUD's Lead Safe Housing Rule (LSHR) is codified in 24 CFR 35, subparts B through R. The LSHR implements sections 1012 and 1013 of Title X. Under Title X, HUD has specific authority to control LBP and LBP hazards in federally-assisted target housing. The LSHR aims in part to ensure that federally-owned or federally-assisted target housing is free of LBP hazards (Ref. 22). Under the LSHR, when a child under age six (6) with an elevated blood lead level (EBLL) is identified, the ''designated party'' and/or the housing owner shall undertake certain actions.

HUD amended the LSHR in 2017, lowering its standard for identifying children with EBLLs from 20 µg/dL to 5 µg/dL, aligning its standard with CDC's reference level. The amendments also included revising HUD's ''Environmental Investigation Blood Lead Level'' (EIBLL) to the EBLL, changing the level of investigation required for a housing unit of a child with an EBLL to an ''environmental investigation'' and adding a requirement for testing in other covered units when a child is identified in a multiunit property. HUD may revisit and revise the agency's EBLL via the notice and comment process, as provided by the definition of EBLL in the amended rule, if it is appropriate to do so in order to align with future changes to CDC's reference level. (Ref. 22).

C. Applicability and Uses of the DLHS

The DLHS reviewed in this regulation support the Lead-based Paint Activities and Disclosure programs, and apply to target housing (*i.e.,* most pre-1978 housing) and COFs (pre-1978 non-residential properties where children under the age of 6 spend a significant amount of time such as daycare centers and kindergartens). Apart from COFs, no other public and commercial buildings are covered by this rule. For further background on the types of buildings to which lead program rules apply, refer to the proposed and final LBP Hazards Rule (Ref. 4).

Within the scope of Title X, the DLHS support and implement major provisions of the statute. They were incorporated into the requirements and risk assessment work practice standards in the LBP Activities Rule; the relationship between post-abatement clearance and the DLHS is discussed in further detail elsewhere in this proposal. The DLHS provide the basis for risk assessors to determine whether LBP hazards are present. The objective of a risk assessment is to determine, and then report, the existence, nature, severity, and location of LBP hazards in residential dwellings and COFs through an on-site investigation. If LBP hazards are found, the risk assessor will also identify acceptable options for controlling the hazards in each property. These options should allow the property owner to make an informed decision about what actions should be taken to protect the health of current and future residents. Risk assessments can only be performed by certified risk assessors.

The risk assessment entails both a visual assessment and collection of environmental samples. The environmental samples include, among other things, dust samples from floors and window sills which are sent to a laboratory for analysis. When the lab results are received, the risk assessor compares them to the DLHS. If the dust-lead loadings from the samples are above the applicable DLHS, then a hazard is present. Any hazards found are listed in a report prepared for the property owner by the risk assessor.

For the Disclosure Rule under section 1018 of Title X (42 U.S.C. 4852d), EPA and HUD have jointly developed regulations requiring a seller or lessor of most pre-1978 housing to disclose the presence of any known LBP and LBP hazards to the purchaser or lessee (24 CFR 35, subpart A; 40 CFR 745, subpart F). Under these regulations, the seller or lessor also must provide the purchaser or lessee any available records or reports ''pertaining to'' LBP, LBP hazards and/or any lead hazard evaluative reports available to the seller or lessor (40 CFR 745.107(a)(4)). Accordingly, if a seller or lessor has a report showing lead is present in levels that would not constitute a hazard, that report must also be disclosed. Thus, disclosure is required under section 1018 even if dust and soil levels are less than the applicable hazard standard. EPA notes, however, that with respect only to leases of target housing, disclosure is not required in the limited circumstance where the housing has been found to be LBP free by a certified inspector (24 CFR 35.82; 40 CFR 745.101).

D. Limitations of the DLHS

The proposed standards are intended to identify dust-lead hazards when LBP risk assessments are performed. These standards, as were those established in 2001, are for the purposes of Title X and TSCA Title IV, and therefore they do not apply to housing and COFs built during or after 1978, nor do they apply to pre-1978 housing that does not meet the definition of target housing. See 40 CFR 745.61. These standards cannot be used to identify housing that is free from risks from exposure to lead, as risks are

dependent on many factors. For instance, the physical condition of a property that contains LBP may change over time, resulting in an increased risk of exposure. If one chooses to apply the DLHS to situations beyond the scope of Title X, care must be taken to ensure that the action taken in such settings is appropriate to the circumstances presented in that situation, and that the action is adequate to provide any necessary protection for children exposed.

The DLHS do not require the owners of properties covered by this proposed rule to evaluate their properties for the presence of dust-lead hazards, or to take action if dust-lead hazards are identified. Although these regulations do not compel specific actions to address identified hazards, these standards are incorporated into certain requirements mandated by State, Federal, Tribal, and local governments. EPA acknowledges that if the proposed DLHS were set too low, the effectiveness of these programs may be limited since resources for hazard mitigation would be distributed more broadly, diverting them from situations that present more serious risks. However, EPA does not believe that the levels proposed today constrict these programs, considering the demonstrated achievability of these levels (Ref. 11). As such, these standards are appropriate for incorporation into the various assessment and hazard control activities to which they apply.

E. Administrative Petition and Litigation

On August 10, 2009, EPA received an administrative petition from several environmental and public health advocacy groups requesting that EPA amend regulations issued under Title IV of TSCA (Sierra Club et al. 2009) (Ref. 23). The petitioners requested that EPA lower the Agency's DLHS issued pursuant to section 403 of TSCA, and the dust-lead clearance levels issued pursuant to section 402 of TSCA, from 40 μg/ft² to 10 μg/ft² or less for floors, and from 250 μg/ft² to 100 μg/ft² or less for window sills; and to lower the definition of LBP pursuant to section 401 of TSCA from 1 mg/cm² and 0.5 percent by weight, to 0.06 percent by weight with a corresponding reduction in units of mg/cm².

On October 22, 2009, EPA responded to this petition pursuant to section 553(e) of the Administrative Procedure Act (5 U.S.C. 553(e)) (EPA 2009) (Ref. 24). EPA agreed to commence an appropriate proceeding on the DLHS and the definition of LBP in response to the petition, but stated that it did not commit to a particular schedule or to a particular outcome.

In August 2016, administrative petitioners—joined by additional citizen groups—filed a petition for writ of mandamus in the Ninth Circuit Court of Appeals, seeking a court order finding that EPA had unreasonably delayed in promulgating a rule to update the DLHS and the definition of LBP under TSCA and directing EPA to promulgate a proposed rule within 90 days, and to finalize a rule within six months. On December 27, 2017, a panel majority of the Ninth Circuit granted the writ of mandamus and ordered that EPA (1) issue a proposed rule within ninety days of the date the decision becomes final and (2) issue a final rule one year thereafter (Ref. 2). On March 26, 2018, the Panel granted EPA's Motion for Clarification, specifying that the proposed rule was due ninety days from the date of that order (Ref. 3).

EPA is issuing this proposed rule in compliance with the Court's order. Notably, the Court's majority decision suggested that EPA had already determined that amending these regulations was necessary pursuant to TSCA (15 U.S.C. 2687). However, EPA stated in its 2009 petition response that ''the current hazard standards *may not* be sufficiently protective'' (Ref. 24) (emphasis added). With regard to the definition of LBP, EPA had not even opined that the definition may not be sufficiently protective. Rather, throughout the litigation, EPA maintained that it would consider whether revision of the definition was appropriate. Also, the sufficiency of the standards was not at issue, as this mandamus petition was about timing, not substance and EPA had not previously conducted the analyses required to reach a conclusion under the statutory standard. It was not until EPA conducted its own analyses—during this rulemaking process—that it was in a position to express the preliminary conclusions that are set forward in this proposal.

III. Proposed Action

EPA is proposing to lower the DLHS for floors from 40 μg/ft² to 10 μg/ft². EPA is proposing to lower the DLHS for window sills from 250 μg/ft² to 100 μg/ft².

EPA is proposing no changes to the current definition of LBP due to insufficient information to support such a change.

A. Dust-Lead Hazard Standards

1. Approach for reviewing the dust-lead hazard standards. As EPA explained in the 2001 hazard standards rulemaking (66 FR 1206, 1207), one of the underlying principles of Title X is to move the focus of public and private sector decision makers away from the mere presence of LBP, to the presence of LBP hazards, for which more substantive action should be undertaken to control exposures, especially to young children. Since there are many sources of lead exposure (*e.g.,* air, water, diet, background levels of lead), and since, under TSCA Title IV, EPA may only account for risks associated with paint, dust and soil, EPA continues to believe that non-zero hazard standards are appropriate.

Based on the language of sections 401, 402, and 403 of TSCA and the purposes of Title X and its legislative history, EPA continues to believe that it is a reasonable exercise of its discretion to set hazard standards based on consideration of the potential for risk reduction and whether such actions are achievable, and with consideration given to the existing programs aimed at achieving such reductions. This proposal is informed by the achievability of these standards in relation to their application in lead risk reduction programs. These considerations will vary within different regulatory programs.

In the 2001 LBP Hazards Rule, EPA first determined the lowest candidate DLHS by using a 1–5% probability of an individual child developing a BLL of 10 μg/dL. EPA then took a pragmatic approach by looking at numerous factors affected by the candidate standards and prioritized protection from the greatest lead risks so as not to dilute intervention resources.

To develop this current proposal, EPA evaluated the relationship between dust-lead levels and children's health, and considered the achievability of the DLHS given the relationship between standards established under TSCA section 403 and the application of those standards in lead risk reduction programs. Consistent with the establishment of the 2001 DLHS, EPA believes national standards are still an appropriate regulatory approach because they facilitate implementation and decrease uncertainty within the regulated community. For further information, see the LBP Hazards Rule (Ref. 4).

EPA's hazard standards should not be considered in isolation, but must be contemplated along with the Agency's actions to address lead in other media. It is anticipated that this proposal, especially in conjunction with other federal actions on, would result in better health outcomes for children. As described elsewhere in this proposal, scientific advances made since the promulgation of the 2001 rule clearly

demonstrate that exposure to low levels of lead result in adverse health effects. Moreover, since CDC has stated that no safe level of lead in blood has been identified, the reductions in children's BLLs as a result of this rule would help reduce the risk of adverse cognitive and developmental effects in children.

2. Technical Analyses and Standard Selection. The analyses that EPA developed to inform this regulation were specifically designed to model potential health risks that might accrue to the subpopulation, children living in pre-1940 and pre-1978 housing, impacted by this proposal and the specific regulatory decision under consideration (dust-lead hazard standards). As described in EPA's Technical Support Document (TSD) that accompanies this proposal, EPA notes that different program offices estimate exposures for different populations, different media, and under different statutory requirements and thus different models or parameters may be a better fit for their purpose. As such, the approach and modeling parameters chosen for this rulemaking should not necessarily be construed as appropriate for or consistent with the goals of other EPA programs (Ref. 5).

When interpreting the results of Integrated Exposure Uptake Biokinetic (IEUBK) modeling, it is important to recognize that the IEUBK was developed, calibrated and validated for site-specific risk assessments. The model and input parameters have been the subject of multiple Science Advisory Board Reviews, workshops and publications in the peer reviewed literature (Ref. 5). EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) determined that adjustments to the input parameters used for site-specific evaluations would be desirable to better reflect considerations specific to this national rulemaking. OCSPP's adjustments were made to support this rulemaking based on peer-reviewed data sources such as EPA's Exposure Factors Handbook and analysis for EPA's Office of Water (Ref. 5). While the agency believes that these adjustments are appropriate to support this rulemaking, this rulemaking and its supporting analyses should not be interpreted to recommend adjustments that vary from EPA's Office of Land and Emergency Management's IEUBK guidance for site-specific analyses.

Reducing childhood lead exposure is an EPA priority, and today's proposal is one component of EPA's broad effort to reduce children's exposure to lead. While no safe level of lead in blood has been identified (Ref. 7), the reductions in children's blood-lead levels resulting from this rule are expected to reduce the risk of adverse cognitive and developmental effects in children. TSCA Section 403 required EPA to promulgate regulations that ''identify . . . lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil'' for purposes of TSCA Title IV and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LBP hazards, under TSCA section 401, are defined as conditions of LBP and lead-contaminated dust and soil that ''would result'' in adverse human health effects (15 U.S.C. 2681(10)). TSCA section 401 defines lead-contaminated dust as ''surface dust in residential dwellings'' that contains lead in excess of levels determined ''to pose a threat of adverse health effects'' (15 U.S.C. 2681(11)).

In the TSD, EPA models the risk of adverse health effects associated with lead dust exposures at differing potential candidate standards for dust levels (17 scenarios) in children living in pre-1940 and pre-1978 housing, as well as associated potential health effects in this subpopulation. Candidate standards that prioritize reducing floor dust loadings over sill dust loadings have the biggest impact on exposure because of the greater likelihood and magnitude of children's exposure (floors take up more square footage of the housing unit and children spend more of their time in contact with the floor rather than the sills.) For example, a candidate standard of 40 μg/ft² for floors and 100 μg/ft² for window sills is likely to be less effective than a standard of 10 or 20 μg/ft² for floors and 250 μg/ft² for window sills.

EPA reported potential effects at the 50th and 97.5th percentile of the affected subpopulation, and made comparisons with multiple metrics, in relation to the CDC reference level of 5 μg/dL and the previous CDC level of concern of 10 μg/dL. Specifically, EPA evaluated which candidate dust-lead standards could approximate 97.5% of the modeled subpopulation of children being below the CDC reference level. EPA's modeling showed that this value was only reached at background dust-lead levels. However, modeling did show that at dust-lead levels of 10 μg/ft² and 100 μg/ft² on floors and window sills, respectively, greater than 90% of the modeled children were below the CDC reference level, while at the current standards, about 80% of children were below this level. EPA feels more confident in potential health gains from candidate standards that compare favorably on multiple metrics. Outcome metrics and comparison values are summarized at tables 7–1 and 7–2 of the TSD.

As expected, as the dust-lead levels were decreased, incremental decreases to BLL and adverse health effects were seen at all points below the current standard. Furthermore, the non-linear nature of the modeled relationships discussed in the TSD mean that greater changes were seen with greater incremental reductions and smaller changes were seen when changes were closer to the original dust-lead standard. These trends, in combination with the sources of uncertainty in the modeling (discussed in Chapter 8 of the TSD) and the fact that the uncertainty is propagated through the Economic Analysis (EA) that relies on the TSD, make it difficult to identify a clear cut-point or a clear alternative for consideration. EPA does note, however, that the results of the EA show that in each of the scenarios examined the quantified benefits outweighed the quantified costs. In selecting a primary proposal, EPA considers that the HUD study shows that for many of the LHC grantees that use existing lead hazard control practices, dust-lead levels as low as 10 μg/ft² and 100 μg/ft² on floors and window sills, respectively, were achievable.

EPA is proposing standards of 10 μg/ft² and 100 μg/ft² for floors and window sills respectively. Based on the experiences of the LHC grantees EPA has tentatively concluded that the petitioned candidate standard of 10 μg/ft² on floors and 100 μg/ft² on window sills is achievable. EPA also notes that all candidate standards evaluated in EPA's economic analysis have positive net benefits and the petitioned candidate standard generally had the highest net benefits across the scenarios analyzed. In choosing the proposed standards, EPA gave significant weight to both the health outcomes identified in the TSD and technically achievability, since these standards will likely be applied in certain lead risk reduction programs, and considering achievability is consistent with the overall statutory goal of decreasing lead exposures to children. However, all standards more stringent than the current standard incrementally improve health outcomes above the existing standards, and the differences among candidate standards are small (see TSD Table 7–2). EPA notes that no non-zero lead level, including background, can be shown to eliminate health risk entirely, so it is appropriate for EPA to consider factors beyond health effects only in choosing the standard. Also, achievability itself is not a bright line concept; in general, as standards

decrease, more and more target housing units will find it challenging to achieve dust lead levels below the standard. Practicability is an important component of achievability.

While EPA is proposing standards of 10 μg/ft² and 100 μg/ft² for floors and window sills respectively, EPA is encouraging public comment on the full range of candidate standards analyzed in the TSD as alternatives to the proposal, including the option not to change the current standard. EPA is also specifically requesting comment on an option that would reduce the floor dust standard but leave the sill dust standard unchanged (*e.g.,* 20 μg/ft² for floors and 250 μg/ft² for window sills, or 10 μg/ft² for floors and 250 μg/ft² for window sills), since reducing floor dust lead has the greatest impact on children's health. Comments are also sought on EPA's tentative conclusion that a standard of 10 μg/ft² and 100 μg/ft² on floors and window sills is achievable, and what changes, if any, including laboratory analytic standard would be necessary to achieve that standard. EPA particularly welcomes data on the achievability of any of the candidate standards analyzed for this proposal.

As mentioned in Unit I.D., EPA worked with HUD OLHCHH to survey the office's LHC grantees to assess the achievability of candidate DLHS (Ref. 11). Survey results showed that reductions in clearance levels to 10 μg/ft² of lead in floor dust and to 100 μg/ft² of lead in dust on window sills were shown to be technically achievable using existing cleaning practices. As explained in the survey final report, clearance testing results were collected from 1,552 housing units and included 7,211 floor samples and 4,893 window sill samples. The data were analyzed to determine the percentage of samples cleared at or below various levels. For floors, 72% of samples showed dust-lead levels at or below 5 μg/ft², 85% were at or below 10 μg/ft², 90% were at or below 15 μg/ft², and 94% were at or below 20 μg/ft². For window sills, 87% of samples showed dust-lead levels at or below 40 μg/ft², 91% were at or below 60 μg/ft², 96% were at or below 80 μg/ft², and 97% were at or below 100 μg/ft² (Ref. 11).

The specific purpose of the LHC programs is to assist ''states, cities, counties/parishes, Native American Tribes, or other units of local government in undertaking comprehensive programs to identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing populations.'' (Ref. 25). Funded activities must be conducted by LBP certified individuals (Ref. 25). Since most of the LHC grantees use commercial firms in their area, HUD OLHCHH believes that the grantees are conducting a large percentage of these activities and are therefore representative of the regulated community.

Ninety-eight of those grantees completed the survey, giving information from housing units in which lead hazard control activities took place from 2010 through 2012, for a total dataset of 1,552 housing units (Ref. 11). Of those housing units, ''[a]lmost half were detached single family homes, while less than 20% were apartments. Almost all were built before 1960, and over three quarters before 1940.'' (Ref. 11). ''The most common methods used included various types of cleaning as well as sealing of floors, [and] sills . . . Overlaying or replacing flooring . . . were less common. It was further found that the stated reductions in . . . standards for floors and sills are generally feasible using the more common methods (cleaning and sealing) exclusively.'' (Ref. 11).

Section 402(a) of TSCA requires EPA to promulgate regulations that ''shall contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.'' To that end, as part of the Lead-based Paint Hazards Rule, EPA established clearance levels as ''40 μg/ft² for floors and 250 μg/ft² for window sills,'' the same as the DLHS in that rulemaking. See 40 CFR 745.227(e)(8)(viii). After conducting LBP abatements, EPA's regulations require a certified inspector or risk assessor to sample the abated area. If the sample results show dust-lead loadings equal to or exceeding the applicable clearance level, ''the components represented by the failed sample shall be recleaned and retested.'' See 40 CFR 745.227(e)(8)(vii). In other words, the abatement is not complete until the dust-lead loadings in the work area are below the clearance levels.

EPA is not proposing to change the post-abatement clearance levels in 40 CFR 745, subpart L today, but EPA recognizes that, in other lead regulatory programs, the DLHS are tightly linked to post-abatement clearance. As discussed elsewhere in this proposal, HUD uses the standards proposed here in their clearance regulations and lead hazard control grant requirements. EPA considered how this approach would impact partner agencies when evaluating candidate standards, and selected standards that accord with achievability studies and partner program implementation. While EPA is not proposing to change the clearance standards today, EPA does intend to review the clearance levels at a later date.

In addition to ensuring that stakeholders can achieve the lower dust-lead loadings proposed in this rule, it is important to assess whether those dust-lead loadings are reliably detectable by laboratories. The National Lead Laboratory Accreditation Program (NLLAP) is an EPA program that defines the minimum requirements and abilities that a laboratory must meet to attain EPA recognition as an accredited lead testing laboratory. EPA established NLLAP to recognize laboratories that demonstrate the ability to accurately analyze paint chips, dust, or soil samples for lead. If, as a result of lowering the DLHS, laboratories recognized by the NLLAP program were unable to accurately measure dust samples at those lower levels, then stakeholders would be unable to use those laboratories in conducting activities required by EPA's LBP program. Notably, as mentioned elsewhere in this document, HUD has already required these lower dust-lead levels of their OLHCHH's lead hazard control grantees in a recent policy guidance revision (Ref. 26). All the laboratories used by the approximately 120 lead hazard control grantees (the number varies over time as grants begin and end) have established the required minimum reporting limit and minimum detection limit for the dust-lead loadings on floors and for window sills proposed today. EPA acknowledges that the laboratories used by OLHCHH's lead hazard control grantees do not represent all of the laboratories accredited under EPA's NLLAP program. In order to continue to be accredited if the DLHS for floors is reduced, all NLLAP laboratories will need to reach a reporting limit not greater than half of the level established (*i.e.,* 5 μg/ft² for a floor DLHS standard of 10 μg/ft²). However, given that 100% of the laboratories used by these grantees were using laboratories with reporting limit not greater 5 μg/ft², there is no technological barrier to reducing the current standard to the petitioned candidate standard. The dust samples analyzed by the laboratories were collected by the grantees. A quantitative review of dust sampling results from 51 grants where clearance was attempted in one of the housing units treated in the April 13, 2017, to May 14, 2018, period under each grant found that 80% (41) of the units passed floor clearance at HUD's clearance level of <10 μg/ft² for these grants on the first attempt. All units that failed floor clearance on the

first attempt passed on the second attempt. All (51) of the units passed the window sill clearance at the clearance level of < 100 μg/ft² for these grants on the first attempt. The dust-lead sample analyses were conducted by a total of 28 laboratories located in 24 states within a total of 12 laboratory firms. The grants were awarded to 49 state or local governments in 16 states (Ref. 27).

In consideration of the factors discussed in this preamble, EPA is proposing to change the DLHS from 40 μg/ft² and 250 μg/ft² to 10 μg/ft² and 100 μg/ft² on floors and window sills, respectively. EPA recognizes that this rulemaking does not address all hazards presented by lead. The DLHS alone cannot solve the lead problem. They are part of a broader program designed to educate the public and raise public awareness, empower and protect consumers, and provide helpful technical information that professionals can use to identify and control lead hazards.

In 2001, EPA concluded that standards that are too stringent may afford less protection to these children by diluting the resources available to address hazards in these communities. While EPA recognizes that BLLs have declined since the promulgation of the 2001 rule and that mitigation costs per child are generally low (see Refs. 8, 12, and 28), this concept is still applicable given BLL trends today. As described in the Key Federal Programs to Reduce Childhood Lead Exposures and Eliminate Associated Health Impacts document, national data suggest disparities persist among communities due to factors such as race, ethnicity, and income (Ref. 17). In 2013–2016, the 95th percentile BLL of children ages 1 to 5 years in families with incomes below poverty level was 3.0 μg/dL (median is 0.9 μg/dL,) and among those in families at or above the poverty level it was 2.1 μg/dL (median is 0.7 μg/dL), a difference that is statistically significant. In 2011–2014, 2.2% of children in families below the poverty level had a BLL at or above 5 μg/dL, compared to 0.6% of children in families at or above the poverty level. The 97.5th percentile in 2013–2016 is 3.3 μg/dL, a slight decrease from the value for 2011–2014 (Ref. 28).

EPA is proposing these new standards to complement other federal actions aimed at reducing lead exposures for all children. EPA also believes that the standards would continue to inform where intervention resources should be directed for children with higher exposures. These are the lowest levels that EPA believes are reliably achievable using existing lead-hazard control practices and that are aligned with the clearance levels required under certain HUD grant programs. As such, these levels provide greater uniformity across the federal government than the other options considered and provide consistency for the regulated and public health communities. EPA is requesting comment on the achievability and appropriateness of the proposed DLHS. EPA also seeks comment on other levels that are described and evaluated in the TSD (Ref. 5) and the EA (Ref. 12), including taking comment on keeping the DLHS at the current levels.

4. Effect of this change on EPA and HUD Programs. a. EPA Risk Assessments. As stated earlier in this preamble, EPA's risk assessment work practice standards provide the basis for risk assessors to determine whether LBP hazards are present in target housing and COFs. As part of a risk assessment, dust samples are taken from floors and window sills to determine if dust-lead levels exceed the hazard standards. Results of the sampling, among other things, are documented in a risk assessment report which is required under the LBP Activities Rule (Ref. 18). In addition to the sampling results, the report must describe the location and severity of any dust-lead hazards found and describe interim controls or abatement measures needed to address the hazards. Under this proposed rule, risk assessors would compare dust sampling results for floors and window sills to the new, lower DLHS. Sampling results above the new hazard standard would indicate that a dust-lead hazard is present on the surfaces tested. EPA expects that this would result in more hazards being identified in a portion of target housing and COFs that undergo risk assessments. The proposed rule does not change any other risk assessment requirements.

b. EPA–HUD Disclosure Rule. Under the Disclosure Rule (Ref. 6), prospective sellers and lessors of target housing must provide purchasers and renters with a federally approved lead hazard information pamphlet and disclose known LBP and/or LBP hazards. The information disclosure activities are required before a purchaser or renter is obligated under a contract to purchase or lease target housing. Records or reports pertaining to LBP or LBP hazards must be disclosed, including results from dust sampling regardless of whether the level of dust lead is below the hazard standard. For this reason, a lower hazard standard would not result in more information being disclosed because property owners would already be disclosing results that show dust-lead below 40 μg/ft² on floors or below 250 μg/ft² on window sills. However, a lower hazard standard may prompt a different response on the lead disclosure form, *i.e.,* that a lead-based paint hazard is present rather than not, which would occur when a dust-lead level is below the current standard but at or above a lower final standard.

c. Renovation, Repair and Painting (RRP) Rule. To avoid confusion about the applicability of this proposed rule, EPA notes that revising the DLHS will not trigger new requirements under the existing RRP Rule. The existing RRP work practices are required where LBP is present (or assumed to be present), and are not predicated on dust-lead loadings exceeding the hazard standards. The existing RRP regulations do not require dust sampling prior to or at the conclusion of a renovation and, therefore, will not be directly affected by a change to the DLHS.

d. HUD Requirements for Federally-assisted or Federally-owned housing. Under sections 1012 and 1013 of Title X, HUD established LBP hazard notification, evaluation, and reduction requirements for certain pre-1978 HUD-assisted and federally-owned target housing, known as the Lead Safe Housing Rule (LSHR). See 24 CFR 35, subparts B–R. The programs covered by these requirements range from supportive housing services to foreclosed HUD-insured single-family insured housing to public housing. For programs where hazard evaluation is required, the DLHS provide criteria to risk assessors for identifying LBP hazards in residences covered by these programs. For programs that require abatement of LBP hazards, the DLHS are used to identify residences that contain dust-lead hazards as part of determining where abatement will be necessary.

e. HUD Guidelines. The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing were developed in 1995 under section 1017 of Title X. They provide detailed, comprehensive, technical information on how to identify LBP hazards in residential housing and COFs, and how to control such hazards safely and efficiently. The Guidelines were revised in 2012 to incorporate new information, technological advances, and new Federal regulations, including EPA's LBP hazard standards. If EPA were to finalize changes in the DLHS, HUD would plan to revise Chapter 5 of the Guidelines on risk assessment and Chapter 15 on clearance based on those changes.

f. LSHR Clearance Requirements. While this proposed rule would not change the clearance levels under EPA's regulations, it would have the effect of

changing the clearance levels that apply to hazard reduction activities under HUD's LSHR. The LSHR requires certain hazard reduction activities to be performed in certain federally-owned and assisted target housing including abatements, interim controls, paint stabilization, and ongoing LBP maintenance. Hazard reduction activities are required in this housing when LBP hazards are identified or when maintenance or rehabilitation activities disturb paint known or presumed to be LBP. The LSHR's clearance regulations, 24 CFR 35.1340, specify requirements for clearance of these projects (when they disturb more than de minimis amounts of known or presumed lead-based painted surfaces, as defined in 24 CFR 35.1350(d)), including a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Clearance testing of abatements and non-abatements is required by 24 CFR 35.1340(a) and (b), respectively.

The LSHR's clearance regulations cross-reference different regulatory provisions to establish clearance levels for abatements than for non-abatement activities. The LSHR clearance regulations for both abatements and non-abatement activities, at 24 CFR 35.1340(d), cross-reference the standards, at 24 CFR 35.1320(b), to be used by risk assessors for conducting clearance; in turn, the standards at 24 CFR 35.1320(b) cross-reference EPA's DLHS at 40 CFR 745.227(h). In addition, the LSHR clearance regulations for abatements, at 24 CFR 35.1340(a), which set forth that clearance must be performed in accordance with EPA regulations, cross-reference EPA's clearance standards for abatements at 40 CFR 745.227(e). Currently, the EPA's DLHS and dust-lead clearance standards for abatements are the same, so cross-referencing different EPA regulatory provisions, at 40 CFR 745.227(e) and (h), has had no effect on hazard reduction activities under the LSHR.

The LSHR clearance regulations for non-abatement activities, at 24 CFR 35.1340(b) do not cross-reference EPA's clearance standards at 40 CFR 745.227(e). Only EPA's DLHS at 40 CFR 745.227(h) are referenced at 24 CFR 1340(d) as the clearance standards for non-abatement activities, because EPA does not have its own clearance standards for them. Accordingly, if this rule is finalized as proposed, non-abatement activities under the LSHR would continue to be cleared using the EPA's DLHS.

EPA's LBP activities regulations on work practice requirements, at 40 CFR 745.65(d), specify that clearance requirements applicable to LBP hazard evaluation and hazard reduction activities are found in both the LSHR, at 24 CFR 35, subpart R, and EPA regulations at 40 CFR 745, subpart L. For abatements covered by both agencies' regulations, the LSHR regulations, at 24 CFR 35.145 and 35.1340(a), require clearance levels following abatement of LBP or LBP hazards to be at least as protective as EPA's clearance levels for abatements at 40 CFR 745.227(e).

If this rule is finalized as proposed, EPA's resultant DLHS would be lower than EPA's clearance standards for abatements, and according to HUD, abatements under HUD's LSHR would be cleared using the EPA's DLHS.

B. The Definition of Lead-Based Paint

As noted in Unit II.D., EPA has neither opined nor concluded that the definition of LBP may not be sufficiently protective. In response to the administrative petition (Ref. 24) and throughout the litigation, EPA maintained that it would consider *whether* revision to the definition of LBP was appropriate. The definition of LBP is incorporated throughout EPA's LBP regulations, and application of this definition is central to how EPA's LBP program functions. EPA believes that accounting for feasibility and health effects would be appropriate when considering a revision. Given the current, significant data gaps presented below and the new approaches that would need to be devised to address them, EPA lacks sufficient information to conclude that the current definition requires revision or to support any specific proposed change to the definition of LBP. EPA is requesting comment on this proposal, and especially on any new available data on the technical feasibility of a revised definition of LBP or analysis of the relationship between levels of lead in paint, dust and risk of adverse health effects.

1. Scope and applicability of the definition of lead-based paint. The definition of LBP reviewed in this proposal supports the LBP activities regulations, Disclosure regulations, and the RRP regulations, and currently applies to target housing and COFs. The definition of LBP helps LBP inspectors identify where LBP may be located, and helps risk assessors identify where LBP hazards are located and where LBP activities may be appropriate. It is the definition lessors and sellers must consider when disclosing LBP information about their properties, and it is the definition renovators must consider when evaluating applicability of the RRP program.

2. Limitations of the Definition of Lead-Based Paint. The definition of LBP is intended to identify LBP for the purposes of Title X and TSCA Title IV. This definition should not be used to identify paint that poses a risk of lead exposure, as risks are dependent on a number of factors. If one chooses to apply the definition of LBP to situations beyond the scope of Title X, care must be taken to ensure that the action taken in such settings is appropriate to the circumstances presented.

3. Analyses needed to evaluate whether a revision to the definition of LBP is appropriate. Evaluating whether revising the definition of LBP is appropriate requires analyzing levels of lead in paint that are lower than what was examined previously by EPA and other federal agencies. More information is needed to establish a statistically valid causal relationship between concentrations of lead in paint (lower than the current definition) and dust-lead loadings which cause lead exposure. Additionally, it is important to understand how capabilities among various LBP testing technology would be affected under a possible revision to the definition.

a. Relationship among lead in paint, environmental conditions, and exposure. EPA would need to further explore the availability and application of statistical modeling approaches that establish robust linkages between the concentration of lead in paint below the current definition and floor dust and BLL before EPA could develop a technically supportable proposal to revise the definition of LBP. To that end, EPA is coordinating with HUD to evaluate available data and approaches. Efforts suggest that most available empirical data and modeling approaches are only applicable at or above the current LBP definition (0.5% and 1 mg/cm^2). It should be noted that EPA developed a model to estimate lead-based dust loadings from renovation activities in various renovation scenarios in 2014 and a similar model was developed in 2011 by Cox et al. However, the underlying data that supported EPA's 2014 model for LBP was EPA's 2007 dust study, which included concentrations of lead in paint ranging from 0.8% to 13% by weight. The data that supported Cox et al. 2011 ranged from 0.7 to 13.2 mg/cm^2 (converted to approximately 0.6% to 31% by weight) of lead in paint (Ref. 29) (Ref. 30) (Ref. 31). Given the range of concentrations that support these models are well above the petitioners' requested concentration of lead in paint,

there would be significant uncertainty associated with using these models to make predictions regarding lead in paint at concentrations an order of magnitude below the current definition.

EPA has conducted a preliminary literature search for studies that co-report lead concentrations in paint and dust in order to identify available data to support modeling approaches (Ref. 29). Among other things, EPA is looking to the literature to establish statistically valid associations between LBP and lead in dust. If such an association, appropriate for applications contemplating lead in paint at low concentrations, is found, EPA could use such information to estimate concentrations of lead in paint and household dust. Alternatively, EPA would likely need to consider generation of new data if data or modeling approaches are not identified, since, as discussed elsewhere in this document, EPA believes there is significant uncertainty associated with estimating dust-lead loadings for levels of lead in paint up to an order of magnitude lower than levels in the current definition using the existing models (Ref. 29), Cox et al. (Ref. 30). EPA expects to need to develop an approach to estimate dust-lead from lower levels of lead in paint so that EPA could estimate incremental blood lead changes and associated health effects changes as described in the existing dust-lead approach. This may involve conducting laboratory or field studies to characterize the relationship between LBP and dust-lead at lower levels of lead in paint (<0.5%) (Ref. 29).

b. Feasibility. EPA lacks sufficient information to support a change to the definition of LBP with respect to feasibility. Significant data gaps prevent the Agency from evaluating and subsequently determining that a change to the existing definition is warranted. For instance, it is currently unknown whether portable field technologies utilized in EPA's LBP activities and RRP programs, as well as HUD's LSHR, perform reliably at significantly lower concentrations of lead in paint.

Portable X-ray fluorescence (XRF) LBP analyzers are the primary analytical method for inspections and risk assessments in housing because they can be used to quickly, non-destructively and inexpensively determine if LBP is present on many surfaces. These measurements do not require destructive sampling or paint removal. Renovation firms may also hire inspectors or risk assessors to conduct XRF testing to identify the presence of LBP. When using XRF technology, the instrument exposes the substrate being tested to electromagnetic radiation in the form of X-rays or gamma radiation. In response to radiation, the lead present in the substrate emits energy at a fixed and characteristic level. The emission is called ''X-Ray Fluorescence,'' or XRF (Ref. 32).

XRF Performance Characteristic Sheets (PCS) have been developed by HUD and/or EPA for most commercially available XRF analyzers (XRFs). In order to comport with the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, an XRF instrument that is used for testing paint in target housing or pre-1978 COFs must have a HUD-issued XRF PCS. XRFs must be used in accordance with the manufacturer's instructions and the PCS. The PCS contains information about XRF readings taken on specific substrates, calibration check tolerances, interpretation of XRF readings, and other aspects of the model's performance. For every XRF analyzer evaluated by EPA and/or HUD, the PCS defines acceptable operating specifications and procedures. The ranges where XRF results are positive, negative or inconclusive for LBP, the calibration check tolerances, and other important information needed to ensure accurate results are also included in the PCS. An inspector and risk assessor must follow the XRF PCS for all LBP activities, and only devices with a posted PCS may be used for LBP inspections and risk assessments (Ref. 32).

XRF analyzers and their corresponding PCS sheets were developed to be calibrated with the current definition of LBP. Therefore, these instruments would need to be re-evaluated to determine the capabilities of each instrument model available on the market to meet a potentially revised definition of LBP, and the corresponding PCS sheet would need to be amended accordingly. If, as a result of a revision to the definition of LBP, the use of XRFs suddenly became unavailable, the effectiveness of the LBP activities regulations would be severely harmed. Since these instruments are the primary analytical method for inspections and risk assessments performed pursuant to the LBP activities regulations, EPA would need to understand how a potential revision to the definition of LBP would affect the ability of the regulated community to use this technology.

When conducting renovations, contractors must determine whether or not their project will involve LBP, and thus fall under the scope of the RRP regulations under 40 CFR 745, subpart E, or in certain jurisdictions, authorized State and Indian Tribal programs under subpart Q (see Unit III.C). Under the RRP rule, renovators have the flexibility to choose among four strategies: Use (1) a lead test kit, (2) an XRF instrument, (3) paint chip sampling to indicate whether LBP is present; or (4) assume that LBP is present and follow all the work-practice requirements. For those using lead test kits, only test kits recognized by the EPA can be used for this purpose. EPA-recognized lead test kits used for the RRP program were evaluated through EPA's Environmental Technology Verification (ETV) Program or by the National Institute of Standards and Technology. ETV was a public-private partnership between EPA and nonprofit testing and evaluation organizations that verified the performance of innovative technologies. ETV evaluated the reliability of the technology used for on-site testing of LBP at the regulated level, under controlled conditions in a laboratory. ETV ended operations in early 2014. EPA would need to evaluate lead test kits using ETV-equivalent testing for a potential revision of the definition of LBP. This would allow EPA to evaluate the reliability of test kits for testing LBP under controlled conditions at levels lower than the current LBP definition, so contractors can continue to use this important tool in compliance with the RRP regulations.

The regulated community uses XRF analyzers for inspections and risk assessments, and lead test kits to determine the presence of LBP during renovations. In consideration of any potential revised definition of LBP, EPA would need to fully understand the repercussions of such a revision on these portable field technologies in order to ensure the technological feasibility of any new revision. The methods EPA would need to employ to do so would involve complex processes that include evaluating the potential ability of XRF analyzers to detect LBP at lower levels than the current definition, the ability to recalibrate PCS sheets for each available model of XRF analyzer, and re-evaluating lead test kits under controlled conditions in a laboratory. EPA currently lacks sufficient information to support such an undertaking.

C. State Authorization

Pursuant to TSCA section 404, a provision was made for interested States, territories and Tribes to apply for and receive authorization to administer their own LBP Activities programs, as long as their programs are at least as protective of human health and the environment as the Agency's program

and provides adequate enforcement. The regulations applicable to State, territorial and Tribal programs are codified at 40 CFR 745, subpart Q. As part of the authorization process, States, territories and Tribes must demonstrate to EPA that they meet the requirements of the LBP Activities Rule. Over time, the Agency may make changes to these requirements. To address the changes proposed in this rule and future changes to the LBP Activities Rule, the Agency is proposing to require States, territories and Tribes to demonstrate that they meet any new requirements imposed by this rulemaking. The Agency is proposing to provide States, territories and Tribes up to two years to demonstrate that their programs include any new requirements that EPA may promulgate. A State, territory or Tribe would have to indicate that it meets the requirements of the LBP Activities program in its application for authorization or, if already authorized, a report it submits under 40 CFR 745.324(h) no later than two years after the effective date of the new requirements. If an application for authorization has been submitted but not yet approved, the State, territory or Tribe must demonstrate that it meets the new requirements by either amending its application, or in a report it submits under 40 CFR 745.324(h) no later than two years after the effective date of the new requirements. The Agency believes that the proposed requirements allow sufficient time for States, territories and Tribes to demonstrate that their programs contain requirements at least as protective as any new requirements that EPA may promulgate.

IV. Request for Comment

EPA is requesting comment on its proposal to lower the DLHS for floor dust to 10 μg/ft² and for window sill dust to 100 μg/ft². EPA is requesting comment on the achievability and appropriateness of the proposed DLHS in these ranges. EPA is requesting comments on all aspects of this proposal, including all options presented in the EA and the TSD that accompanies this proposal. EPA is requesting comment on whether it has properly characterized the neurodevelopmental effects of lead in children. EPA specifically requests additional studies that support the quantification and monetization of these neurodevelopmental effects in the Agency's analyses. EPA also seeks comment on four other alternatives discussed in the EA, including maintaining the DLHS at the current levels.

EPA is proposing no changes to the definition of LBP due to insufficient information to support such a change. EPA is requesting comment on this proposal to make no change to the definition of LBP.

EPA is requesting comment on its proposal to provide States, territories and Tribes up to two years to demonstrate that their programs include any new requirements that EPA may promulgate.

EPA is also requesting comment on methods, models and data used in the EA and the TSD that accompany this proposal. (1) The agency provided a preliminary assessment of how this hazard standard may potentially affect other units in target housing and child occupied facilities in the Appendix B of the Economic Analysis. The agency is seeking information—*e.g.,* data, scholarly articles—that will allow the agency to refine this assessment and determine whether the effect on the target housing and child occupied facilities should be included in the primary benefit and cost estimates presented in the analysis. (2) The agency is seeking information that will allow the agency to refine their current approach on assessing uncertainties associated with the benefit and cost estimates. (See page ES–8 of the Executive Summary of the EA for more specific requests).

In addition to the areas on which EPA has specifically requested comment, EPA requests comment on all other aspects of this proposed rule.

V. References

The following is a list of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Public Law 102–550, Title X—Housing and Community Development Act, enacted October 28, 1992 (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or ''Title X'') (42 U.S.C. 4851 *et seq.*).
2. U.S. Court of Appeals for the Ninth Circuit. *A Community Voice* v. *EPA,* No. 16–72816, Opinion. December 27, 2017.
3. U.S. Court of Appeals for the Ninth Circuit. *A Community Voice* v. *EPA,* No. 16–72816, Order. March 26, 2018.
4. EPA. Lead; Identification of Dangerous Levels of Lead; Final Rule. **Federal Register** (66 FR 1206, January 5, 2001) (FRL–6763–5).
5. EPA Office of Pollution Prevention and Toxics. Technical Support Document for Residential Dust-lead Hazard Standards Rulemaking Approach taken to Estimate Blood Lead Levels and Effects from Exposures to Dust-lead. June 2018.
6. HUD, EPA. Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing; Final Rule. **Federal Register** (61 FR 9064, March 6, 1996) (FRL–5347–9).
7. CDC. CDC Response to Advisory Committee on Childhood Lead Poisoning Prevention Recommendations in ''Low Level Lead Exposure Harms Children: A Renewed Call of Primary Prevention.'' June 7, 2012. *https://www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf.*
8. CDC. Blood Lead Levels in Children Aged 1–5 Years—United States, 1999–2010. Morbidity and Mortality Weekly Report, Vol. 62 No. 13, April 5, 2013. *https://www.cdc.gov/mmwr/pdf/wk/mm6213.pdf.*
9. EPA. Integrated Science Assessment (ISA) for Lead (Final Report, Jul 2013). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–10/075F, 2013. *https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=255721.*
10. HHS, National Toxicology Program. NTP Monograph: Health Effects of Low-Level Lead. 2012. *https://ntp.niehs.nih.gov/ntp/ohat/lead/final/monographhealtheffectslowlevellead_newissn_508.pdf.*
11. HUD Office of Lead Hazard Control and Healthy Homes. Lead Hazard Control Clearance Survey. October 2015. *https://www.hud.gov/sites/documents/CLEARANCESURVEY_24OCT15.PDF.*
12. EPA Office of Pollution Prevention and Toxics. Economic Analysis of the Proposed Rule to Revise the TSCA Dust-lead Hazard Standards. June 2018.
13. CDC. Lead Poisoning in Children (February 2011). *https://www.cdc.gov/healthcommunication/toolstemplates/entertainmented/tips/LeadPoisoningChildren.html.*
14. Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences. Lead—ToxFAQs™ CAS #7439–92–1, August 24, 2016. *https://www.atsdr.cdc.gov/toxfaqs/tfacts13.pdf.*
15. EPA. Exposure Factors Handbook Chapter 5 Soil and Dust Ingestion (2017 update). *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252.*
16. Zartarian, V., Xue, J., Tornero-Velez, R., & Brown, J. (2017). Children's Lead Exposure: A Multimedia Modeling Analysis to Guide Public Health Decision-Making. Environmental Health Perspectives, 125(9), 097009–097009. *https://doi.org/10.1289/EHP1605.*
17. President's Task Force on Environmental Health Risks and Safety Risks to Children. Key Federal Programs to Reduce Childhood Lead Exposures and Eliminate Associated Health Impacts. November 2016. *https://*

ptfceh.niehs.nih.gov/features/assets/files/key_federal_programs_to_reduce_childhood_lead_exposures_and_eliminate_associated_health_impactspresidents_508.pdf.
18. EPA. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL–5389–9).
19. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (73 FR 21692, April 22, 2008) (FRL–8355–7).
20. EPA. Lead; Amendment to the Opt-Out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (75 FR 24802, May 6, 2010) (FRL–8823–7).
21. EPA. Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (76 FR 47918, August 5, 2011) (FRL–8881–8).
22. HUD. Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Levels; Final Rule. **Federal Register** (82 FR 4151, January 13, 2017) (FR–5816–F–02).
23. Sierra Club et al. Letter to Lisa Jackson RE: Citizen Petition to EPA Regarding the Paint and Dust Lead Standards. August 10, 2009.
24. EPA. Letter in response to citizen petition under section 553(e) of the Administrative Procedure Act (5 U.S.C. 553(e)). October 22, 2009.
25. HUD Office of Lead Hazard Control and Healthy Homes. Lead-Based Paint Hazard Reduction. FR–6200–N–12. Section I.A.1. June 19, 2018. *https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps/fy18lbphr*.
26. HUD Office of Lead Hazard Control and Healthy Homes. OLHCHH Policy Guidance 2017–01 Rev 1. Revised Dust-Lead Action Levels for Risk Assessment and Clearance. February 16, 2017. *https://www.hud.gov/sites/documents/LeadDustLevels_rev1.pdf*.
27. HUD Office of Lead Hazard Control and Healthy Homes. First-Round Clearance Results from Sample of Grants Active as of April 13, 2017. May 24, 2018.
28. CDC, National Center for Health Statistics. National Health and Nutrition Examination Survey: Questionnaires, Datasets, and Related Documentation. *https://wwwn.cdc.gov/nchs/nhanes/Default.aspx*. Accessed May 30, 2018.
29. EPA Office of Pollution Prevention and Toxics. Definition of Lead-Based Paint Considerations. June 2018.
30. Cox et al. (2011). Improving the Confidence Level in Lead Clearance Examination Results through Modifications to Dust Sampling Protocols. Journal of ASTM International, Vol. 8, No. 8. *https://doi.org/10.1520/JAI103469*.
31. EPA Office of Pollution Prevention and Toxics. Revised Final Report on Characterization of Dust Lead Levels After Renovation, Repair, and Painting Activities. November 13, 2007. *https://www.epa.gov/lead/revised-final-report-characterization-dust-lead-levels-after-renovation-repair-and-painting*.
32. HUD Office of Lead Hazard Control and Healthy Homes. Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing. Second Edition, July 2012.

VI. Statutory and Executive Orders Reviews

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

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket. The Agency prepared an analysis of the potential costs and benefits associated with this action, which is available in the docket (Ref. 12).

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 regulatory action (82 FR 9339, February 3, 2017). Details on the estimated costs of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not directly impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Under 24 CFR 35, subpart A and 40 CFR 745, subpart F, sellers and lessors must already provide purchasers or lessees any available records or reports ''pertaining to'' LBP, LBP hazards and/or any lead hazard evaluative reports available to the seller or lessor. Accordingly, a seller or lessor must disclose any reports showing dust-lead levels, regardless of the value. Thus, this action would not result in additional disclosures. Because there are no new information collection requirements to consider under the proposed rule, or any changes to the existing requirements that might impact existing ICR burden estimates, additional OMB review and approval under the PRA is not necessary.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities. The small entities subject to the requirements of this action are small businesses that are lessors of residential buildings and dwellings (who may incur costs for lead hazard reduction measures in compliance with the HUD Lead Safe Housing Rule or environmental investigations triggered by a child with an EBLL); residential remodelers (who may incur costs associated with additional cleaning and sealing in houses undergoing rehabilitation subject to the HUD Lead-Safe Housing Rule) and abatement firms (who may also incur costs associated with additional cleaning and sealing). The Agency has determined that this rule would impact 39,000 to 44,000 small businesses; 38,000 to 42,000 have cost impacts less than 1% of revenues, 1,000 to 2,000 have impacts between 1% and 3%, and approximately 100 have impacts greater than 3% of revenues. Details of the analysis of the potential costs and benefits associated with this action are presented in the EA, which is available in the docket (Ref. 12).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The total estimated annual cost of the proposed rule is $66 million to $119 million per year (Ref. 12), which does not exceed the inflation-adjusted unfunded mandate threshold of $154 million.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. States that have authorized LBP Activities programs must demonstrate that they have DLHS at least as protective as the standards at 40 CFR 745.227. However,

authorized States are under no obligation to continue to administer the LBP Activities program, and if they do not wish to adopt new DLHS they can relinquish their authorization. In the absence of a State authorization, EPA will administer these requirements. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Tribes that have authorized LBP Activities programs must demonstrate that they have DLHS at least as protective as the standards at 40 CFR 745.227. However, authorized Tribes are under no obligation to continue to administer the LBP Activities program, and if they do not wish to adopt new DLHS they can relinquish their authorization. In the absence of a Tribal authorization, EPA will administer these requirements. Thus, Executive Order 13175 does not apply to this action.

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

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is economically significant as defined in Executive Order 12866, and because the environmental health or safety risk addressed by this action may have a disproportionate effect on children. (Ref. 5)

The primary purpose of this rule is to reduce exposure to dust-lead hazards in target housing where children reside and in target housing or COFs. EPA's analysis indicates that there will be approximately 78,000 to 252,000 children affected by the rule (Ref. 12).

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

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

List of Subjects in 40 CFR Part 745

Environmental protection, Target housing, Child-occupied facility, Housing renovation, Lead, Lead poisoning, Lead-based paint, Renovation, Hazardous substances.

Dated: June 22, 2018.

E. Scott Pruitt,

Administrator.

Therefore, 40 CFR chapter I, subchapter R, is proposed to be amended as follows:

PART 745—[AMENDED]

■ 1. The authority citation for part 745 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2681–2692 and 42 U.S.C. 4852d.

■ 2. In § 745.65 paragraph (b) is revised to read as follows:

§ 745.65 Lead-based paint hazards.

* * * * *

(b) *Dust-lead hazard.* A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 10 μg/ft² on floors or 100 μg/ft² on interior window sills based on wipe samples.

* * * * *

■ 3. In § 745.227 paragraph (h)(3)(i) is revised to read as follows:

§ 745.227 Work practice standards for conducting lead-based paint activities: Target housing and child-occupied facilities

* * * * *

(h) * * *

(3) * * *

(i) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 10 μg/ft² for floors and 100 μg/ft² for interior window sills, respectively;

* * * * *

■ 4. Section 745.325 is amended by revising paragraph (e) to read as follows:

§ 745.325 Lead-based paint activities: State and Tribal program requirements.

* * * * *

(e) *Revisions to lead-based paint activities program requirements.* When EPA publishes in the **Federal Register** revisions to the lead-based paint activities program requirements contained in subpart L of this part:

(1) A State or Tribe with a lead-based paint activities program approved before the effective date of the revisions to the lead-based paint activities program requirements in subpart L of this part must demonstrate that it meets the requirements of this section in a report that it submits pursuant to § 745.324(h) but no later than 2 years after the effective date of the revisions.

(2) A State or Tribe with an application for approval of a lead-based paint activities program submitted but not approved before the effective date of the revisions to the lead-based paint activities program requirements in subpart L of this part must demonstrate that it meets the requirements of this section either by amending its application or in a report that it submits pursuant to § 745.324(h) of this part but no later than 2 years after the effective date of the revisions.

(3) A State or Tribe submitting its application for approval of a lead-based paint activities program on or after the effective date of the revisions must demonstrate in its application that it meets the requirements of the new lead-based paint activities program requirements in subpart L of this part.

[FR Doc. 2018–14094 Filed 6–29–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 5, 73, and 74

[MB Docket No. 18–121; FCC 18–61]

Amendment of Parts 0, 1, 5, 73, and 74 of the Commission's Rules Regarding Posting of Station Licenses and Related Information

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on whether to streamline or eliminate provisions of our regulation which require the posting and maintenance of broadcast licenses and related information in specific locations. The Commission tentatively concludes that these licenses posting rules should be eliminated because they are redundant and obsolete now that licensing

information is readily accessible online through the Commission's databases. Through this action we advance our efforts to modernize our media regulations and remove unnecessary requirements that can impede competition and innovation in the media marketplace

DATES: Comments are due on or before August 1, 2018; reply comments are due on or before August 16, 2018.

ADDRESSES: You may submit comments, identified by MB Docket No. 18–121, by any of the following methods:

- *Federal Communications Commission's Website: http://www.fcc.gov/cgb/ecfs/.* 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 (although the Commission continues to experience delays in receiving 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 detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Jonathan Mark, *Jonathan.Mark@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–3634. Direct press inquiries to Janice Wise at (202) 418–8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 18–121, adopted and released on May 10, 2018. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://fjallfoss.fcc.gov/ecfs2/.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. 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

I. Notice of Proposed Rulemaking

1. In this Notice of Proposed Rulemaking (NPRM), we seek comment on whether to streamline or eliminate provisions in Parts 0, 1, 5, 73 and 74 of our rules which require the posting and maintenance of broadcast licenses and related information in specific locations. In conjunction with the Commission's Modernization of Media Regulation Initiative, several parties have urged us to eliminate license posting rules because they are redundant and obsolete now that licensing information is readily accessible online through the Commission's databases. Through this NPRM, we advance our efforts to modernize our media regulations and remove unnecessary requirements that can impede competition and innovation in the media marketplace.

2. Several Commission rules impose certain posting and record maintenance obligations on broadcast stations. For example, Section 73.1230, which applies to all broadcast stations, provides:

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.

Likewise, Section 73.801 applies Section 73.1230 to low power FM stations. Sections 74.564 and 74.664, applicable to aural and television broadcast auxiliary stations,[1] respectively, require stations to post licenses and any other authorizations ''in the room in which the transmitter is located'' and prescribes the manner of such posting. Similarly, under Sections 74.432(j) and 74.832(j), remote pickup station and low power auxiliary station licensees are required to post licenses either at the transmitter or station control point. Further, under Section 5.203(b), broadcast licensees must post experimental authorizations along with their station license, and Section 1.62(a)(2) requires all Commission licensees, including broadcast entities, to post information pertaining to license renewal applications as well as the license itself.

3. In addition, several Commission rules require the maintenance of licensing documentation and the display of specified station contact information. For example, Section 74.1265, which applies to FM translator and FM booster stations, provides:

(a) The station license and any other instrument of authorization or individual order concerning the construction of the station or the manner of operation shall be kept in the station record file maintained by the licensee so as to be available for inspection upon request to any authorized representative of the Commission.

(b) The call sign of the translator or booster together with the name, address, and telephone number of the licensee or local representative of the licensee if the licensee does not reside in the community served by the translator or booster, and the name and address of a person and place where station records are maintained, shall be displayed at the translator or booster site on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground at the transmitter site. The display shall be prepared so as to withstand normal weathering for a reasonable period of time and shall be maintained in a legible condition by the licensee.

Similarly, Section 74.765 requires LPTV, TV translator, and TV booster stations to maintain their station license and other authorizations in their station record file and to physically display their call sign together with the name, address, and telephone number of the licensee or local representative of the licensee and the name and address of a person and place where station records are maintained at the antenna site.[2]

[1] Broadcast auxiliary stations are radio frequency systems used by broadcast stations and broadcast or cable network entities to relay broadcast aural or television signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio.

[2] We note that Section 78.59 also contains license posting requirements for cable television relay stations (CARS) licensees. Given that not all CARS authorizations are housed online and no commenter

4. The Commission originally adopted broadcast license posting rules in 1930 and over the years it expanded these rules to apply to new services that were deployed by broadcasters. In adopting its first broadcast license posting rule, the Commission's predecessor, the Federal Radio Commission, provided no explicit rationale for the posting requirements. Subsequent Commission decisions adopting or revising license posting or record maintenance requirements similarly provided no detailed explanation for such rules. Based on the text of the current rules, these requirements appear intended to ensure that information regarding station authorizations, ownership, and contact information is readily available and easily accessible to the Commission and public.

5. We seek comment on whether to eliminate or modify the license posting and record maintenance rules applicable to broadcasters. In particular, we seek comment on whether these rules continue to serve the public interest given that most of the information required to be displayed or maintained under these rules is now available through electronic means. We note that all of the information regarding broadcast station licenses and other broadcast authorizations that is required to be physically posted pursuant to Sections 1.62(a)(2),[3] 5.203(b), 73.1230, 73.801, 74.432(j), 74.564, 74.664, 74.733, 74.787, and 74.832(j) is readily available online through Commission databases [4] and, for full power and Class A stations, the Online Public Inspection File.[5] Several commenters contend that the availability of broadcast licensing information through other sources renders such posting requirements unnecessary.[6]

6. Commenters similarly note that information required to be displayed or otherwise maintained under Sections 74.1265 and 74.765 regarding LPTV, TV and FM translator stations, and TV and FM booster stations is available to the public electronically through the Commission's CDBS, LMS and/or ULS databases.[7] The information specified in Sections 74.1265 and 74.765 that also is available through these databases includes station licenses and authorizations, orders and dispositions regarding station construction or facilities operation, the station call sign, and the name, address, and telephone number of the station's licensee and contact representative.

7. Considering the ready availability of pertinent station information through the changes in technology noted in the record, we seek comment on whether the public interest would be served by eliminating or modifying our broadcast license posting and record maintenance provisions. Given that the Commission first adopted broadcast license posting requirements nearly 90 years ago and that most of the information required to be displayed or maintained under these rules is available through other means, we seek comment on whether these rules remain necessary or relevant today. Is there any valid justification for continuing to require broadcasters to post or maintain a physical copy of their licenses and other authorizations? If so, do such justifications outweigh the costs to broadcast stations of complying with these requirements?

8. In addition, we seek comment on the continuing practicality of requirements to physically display licensing documents at the site of broadcast facilities. With respect to Sections 73.1230, 73.801, 74.564, and 74.664, commenters assert that the obligation to post licenses and other authorizations at the ''principal control point of the transmitter'' is outdated. These parties argue that, because most stations have transitioned to dial-up or IP systems that enable them to manage transmitters remotely from a smartphone or personal computer, the ''principal control point'' has been rendered obsolete. Have these technological changes made such requirements impractical? Similarly, does it remain necessary, as currently required under Sections 74.1265(b) and 74.765(b) only for booster, translator, and LPTV stations, to require that certain information be displayed at the transmitter site ''on the structure supporting the transmitting antenna, so as to be visible to a person standing on the ground''? To what extent are the transmitter sites of LPTV, booster, and translator stations in locations that cannot be viewed or accessed by members of the public, and are these requirements useful even if the sites are not accessible to the public? [8]

9. We seek comment on whether these provisions serve any public safety objectives that would be undermined by eliminating them. For example, if broadcast stations no longer were required to physically maintain licenses or related information at the transmitter or antenna site, would sufficient information be readily available to facilitate on-scene assessment during a disaster in cases where communications systems were affected and online systems could not be accessed? [9] In such instances, can we presume that, if necessary, Commission staff and station employees would be able to access the

in the media modernization docket has asked the Commission to eliminate these requirements, we decline to seek comment on eliminating the posting requirements in Section 78.59 in this proceeding. In addition, we note that the Commission applies similar requirements to other, non-broadcast licensees, *e.g.,* 47 CFR 13.19 (commercial radio operators), 25.115(c)(2)(vi)(E) (satellite communications); 80.405(c), 80.407, 80.411(b) (maritime services); 87.103 (aviation services); 90.437 (private land mobile radio services); 97.213 (amateur radio service); 101.215 (fixed microwave services). We decline to address such rules in this proceeding, as they are beyond the scope of the Modernization of Media Regulation Initiative.

[3] With respect to Section 1.62(a)(2), which applies to all Commission licensees, we limit our inquiry to whether broadcast stations should be excluded from obligations to post information pertaining to license renewal applications along with the station license. *See infra* Appendix A.

[4] This information about all broadcasters is publicly available through the Commission's Consolidated Database System (CDBS), *http://licensing.fcc.gov/prod/cdbs/pubacc/prod/app_sear.htm.* Similarly, the public may access copies of a station's license, which includes the station call sign and the name, address, and telephone number of the station licensee and point of contact, through the Commission's Licensing Management System (LMS), *https://enterpriseefiling.fcc.gov/dataentry/login.html* and/or Universal Licensing System (ULS), *http://wireless.fcc.gov/uls/index.htm?job=home.* However, information regarding the custodian of station records is not available online. *See infra* para. 10.

[5] Online Public Inspection File, available at *https://publicfiles.fcc.gov/. See* 47 CFR 73.3526 (governing public file obligations of full power commercial broadcast stations); § 73.3527 (governing public file obligations of noncommercial educational broadcast stations.)

[6] The Commission's broadcast licensing databases can be searched in multiple ways, including by call sign, licensee name, facility identification number, channel number/frequency, community of license, and in the case of the online public inspection file, by city or municipality.

[7] We note that LPTV and LPFM stations, TV and FM translator stations, and TV and FM booster stations are not subject to the Online Public Inspection File rules and, with the exception of LPTV and LPFM stations, these categories of stations historically have not been required to make records available for public inspection.

[8] In 1995, the Commission considered whether to extend these requirements to additional services beyond LPTV, translator, and booster stations or otherwise modify the existing requirements. The Commission suggested that transmitter site posting requirements may not be practicable at transmitter sites bounded by protective fencing, but ''where transmitters are located in places somewhat separated from stations of other radio services [such requirements] may assist in the identification of a transmission facility.'' Ultimately, the Commission declined to modify the rules, citing ''the absence of definitive information'' on the need for such modifications.

[9] Under the current rules, only LPTV, booster, and translator stations must display information on the transmitter structure (47 CFR 74.765(b), 74.1265(b)), whereas aural and TV auxiliary broadcast stations must post the required information ''in the room in which the transmitter is located'' (*Id.* §§ 74.564(a), 74.664(a)), and other licensees (*i.e.,* full power and Class A TV, AM, FM, and LPFM licensees) must post information at the ''principal control point of the transmitter'' (*Id.* §§ 73.801, 73.1230(a)), which may be several miles away from the transmitter.

authorized technical parameters of operation available in Commission databases through other means? In addition, we seek comment on whether our rules requiring the posting of information ''on the structure supporting the transmitting antenna'' serve any purpose with respect to antenna structure lighting, such as allowing first responders or others to determine quickly whom to contact about a lighting problem. In such situations, can information be readily accessed through other means?

10. In addition, we seek comment on the continued need under Sections 74.1265(b) and 74.765(b) for licensees of LPTV, translator, and booster stations to display ''the name and address of a person and place where . . . station records are maintained.'' This ''custodian of records'' information is the only information broadcasters must display that is not currently available online through a Commission-hosted database. We note that the name, address, and telephone number of the station's licensee and contact representative is readily available online through our databases.[10] Given the accessibility of a station contact representative, is there any need to separately require such stations to provide and make publicly available contact information for a custodian of records? If it continues to be necessary for Commission staff to be apprised of the location of station records and their custodian, how should this information be provided if we eliminate Sections 74.1265 and 74.765? For example, should we consider revising one of the forms that these stations currently must file with the Commission, such as the license renewal application form (Form 303–S), to solicit this information? Alternatively, should we retain the portion of Sections 74.1265 and 74.765 requiring this information to be maintained at the antenna site? Or, are these sites now in locations that cannot be viewed or accessed by members of the public such that this requirement is no longer justified?

11. Finally, for reasons similar to those noted above, we seek comment on whether to eliminate provisions in our rules that cross-reference the above referenced requirements, and whether to modify Section 1.62(a)(2) to exclude broadcast stations from the license posting requirements. In addition, we seek input on whether there are any additional broadcast license posting or record maintenance requirements that should be modified or deleted. Parties urging the retention of any aspect of the posting or record maintenance requirements identified in this NPRM should explain how the benefits of such requirements exceed their costs. Likewise, parties advocating elimination of any requirements should discuss the costs of compliance as compared to any associated benefits of retaining them. To the extent possible, commenters should quantify any claimed costs or benefits and provide supporting information.

[10] The public may view a station's license, which includes contact information for the station licensee and point of contact, by entering search criteria for the station of interest (*e.g.,* station call sign, facility identifier, community of license, state) into CDBS, LMS, and/or ULS. This contact information also is provided on other broadcast applications that are filed in, and publicly available through, the Commission's online databases.

II. Procedural Matters

A. Initial Paperwork Reduction Act Analysis

12. This document contains proposed new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). It seeks comment on how the Commission could update its current forms to solicit the name and address of LPTV, translator and booster station records and their custodian in the absence of posting requirements. The Commission, as part of its continuing efforts to reduce paperwork burdens, invites the 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

B. Initial Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA) the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) concerning the possible significant economic impact on small entities by the rules proposed in this Notice of Proposed Rulemaking (NPRM). 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 provided on the first page of the NPRM. Pursuant to the requirements established in 5 U.S.C. 603(a), The Commission 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**.

14. *Need for, and Objectives of, the Report and Order.* The proposed rule changes stem from a Public Notice issued by the Commission in May 2017 launching an initiative to modernize the Commission's media regulations. Numerous parties in that proceeding argued for the elimination of these rules on the basis that they are redundant and obsolete. The NPRM proposes to eliminate various provisions in Parts 0, 1, 5, 73, and 74 of the Commission's rules that require broadcasters to post and otherwise make available station licenses and related information.

15. Specifically, the NPRM proposes to eliminate: Section 73.1230, which requires broadcast stations to post their station license and other authorizations at ''the principal control point of the transmitter'' and prescribes the manner of such posting; Section 73.801, which applies Section 73.1230 to low power stations; Section 74.1265, which requires FM booster and translator stations to maintain their station license and other documents in their station record file and to physically display their call sign and other information at the antenna site; Sections 74.564 and 74.664, applicable to aural and television broadcast auxiliary stations, respectively, which require stations to post licenses and any other authorizations ''in the room in which the transmitter is located'' and prescribes the manner of such posting; Sections 74.432(j) and 74.832(j), which require remote pickup station and low power auxiliary station licensees to post licenses either at the transmitter or station control point; Section 5.203(b), which requires broadcast licensees to post experimental authorizations along with their station license; Section 1.62(a)(2), which requires all Commission licensees, including broadcast entities, to post information pertaining to license renewal applications as well as the license itself; and Section 74.765, which requires LPTV, TV translator, and TV booster stations to maintain their station license and other authorizations in their station record file and to physically display their call sign together with the name, address, and telephone number of the licensee or local representative of the licensee and the name and address of a person and place where station records are maintained at the antenna site. These proposals are intended to reduce outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets.

16. *Legal Basis.* The proposed action is authorized pursuant to Sections 1, 4(i), 4(j), 303, 309, 310, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, 309, 310, and 336.

17. *Description and Estimates of the Number of Small Entities To Which the Proposed Rules Will Apply.* 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.[11] 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.[12] The rules proposed herein will directly affect certain small television and radio broadcast stations, and cable entities. Below is a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

18. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less. Based on this data, we estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

19. In addition, the Commission has estimated the number of licensed commercial television stations to be 1,384. Of this total, 1,264 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 24, 2017. Such entities, therefore, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 394. The Commission, however, does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

20. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations[13] must be included. Our estimate, therefore likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules would apply does not exclude any television station from the definition of a small business on this basis and therefore could be over-inclusive.

21. There are also 417 Class A stations. Given the nature of this service, we will presume that all 417 of these stations qualify as small entities under the above SBA small business size standard.

22. *Radio Stations.* This economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public.'' The SBA has created the following small business size standard for this category: Those having $38.5 million or less in annual receipts. Census data for 2012 shows that 2,849 firms in this category operated in that year. Of this number, 2,806 firms had annual receipts of less than $25,000,000. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded $38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

23. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,486 stations and the number of commercial FM radio stations to be 6,755, for a total number of 11,241. Of this total, 9,898 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) in October 2014. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,111. NCE stations are non-profit, and therefore considered to be small entities.[14] Therefore, we estimate that the majority of radio broadcast stations are small entities.

24. *Low Power FM Stations.* The same SBA definition that applies to radio stations would apply to low power FM stations. As noted above, the SBA has created the following small business size standard for this category: Those having $38.5 million or less in annual receipts.[15] The Commission has estimated the number of licensed low power FM stations to be 1,966.[16] In addition, as of June 30, 2017, there were a total of 7,453 FM translator and FM booster stations.[17] Given the nature of these services, we will presume that these licensees qualify as small entities under the SBA definition.

25. We note again, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations[18] must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio

[11] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[12] 15 U.S.C. 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission's statistical account of television stations may be over-inclusive.

[13] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[14] 5 U.S.C. 601(4), (6).

[15] 13 CFR 121.201, NAICS Code 515112.

[16] *News Release,* ''Broadcast Station Totals as of June 30, 2017'' (rel. July 11, 2017) (*http://fjallfoss.fcc.gov/edocs_public/attachmatch/DOC-304594A1315231A1.pdf*).

[17] *News Release,* ''Broadcast Station Totals as of June 30, 2017'' (rel. July. 11, 2017).

[18] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.''

broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of ''small business'' is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, our estimate of small radio stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

26. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* In this section, we identify the reporting, recordkeeping, and other compliance requirements proposed in the NPRM and consider whether small entities are affected disproportionately by any such requirements.

27. *Reporting Requirements.* The NPRM proposes to modify existing reporting requirements. Specifically, the NPRM seeks comment on how the Commission could update its current forms, such as revising the license renewal application form (Form 303–S), to solicit the name and address of LPTV, translator, and booster station records and their custodian in the absence of posting requirements. This modification would benefit small entities by removing burdensome posting obligation and allowing licensees to add required custodian on records information to an existing form which licensees routinely file with the Commission.

28. *Recordkeeping Requirements.* The NPRM does not propose to adopt recordkeeping requirements.

29. *Other Compliance Requirements.* The NPRM does not propose to adopt other compliance requirements.

30. Because no commenter provided information specifically quantifying the costs and administrative burdens of complying with the existing recordkeeping requirements, we cannot precisely estimate the impact on small entities of eliminating them. The proposed rule revisions, if adopted, will remove record keeping for all affected broadcast licensees, including small entities. Numerous parties in the Modernization of Media Regulation Initiative have requested the proposals set forth in the NPRM and no parties in that proceeding have opposed such proposals.

31. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* 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 small entities.[19]

32. The NPRM proposes to eliminate recordkeeping obligations requiring the posting of stations' license and other authorizations. Eliminating these requirements is intended to modernize the Commission's regulations, remove duplicative and obsolete recordkeeping requirements and reduce costs and recordkeeping burdens for affected entities, including small entities. Under the current rules, affected entities must expend time and resources posting and maintaining licenses and related information already available to the Commission, and most of which is publicly accessible by electronic means. The proposed elimination would relieve such entities from these obsolete recordkeeping requirements. Thus, we anticipate that affected small entities only stand to benefit from such revisions, if adopted.

33. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule.* None.

C. Ex Parte Rules

34. *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.

D. Filing Requirements

35. *Comments and Replies.* Pursuant to Sections 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: *http://fjallfoss.fcc.gov/ecfs2/.*
- *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

[19] 5 U.S.C. 603(c)(1) through (c)(4).

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. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

37. *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 FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

38. *It is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 303, 309, 310, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303, 309, 310, and 336, this Notice of Proposed Rulemaking *is adopted.*

39. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Reporting and Recordkeeping Requirements.

47 CFR Part 1

Communications Common Carriers, Radio, Reporting and Recordkeeping Requirements, Television.

47 CFR Part 5

Radio, Reporting and Recordkeeping Requirements, Television.

47 CFR Part 73

Radio, Reporting and Recordkeeping Requirements, Television.

47 CFR Part 74

Radio, Reporting and Recordkeeping Requirements, Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rule Changes

The Federal Communications Commission proposes to amend Part 0, 1, 5, 73, and 74 of Title 47 of the Code of Federal Regulations (CFR) as set forth below:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Amend § 0.408 paragraph (b) by revising the entry for 3060–0633 to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

* * * * *

(b) Display. * * *

3060–0633	Secs. 74.165, 74.432, and 74.832.	04/30/18

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452, and 1455, unless otherwise noted.

■ 4. Amend § 1.62 by revising paragraph (a)(2) to read as follows:

§ 1.62 Operation pending action on renewal application.

(a) * * *

(2) A non-broadcast licensee operating by virtue of this paragraph shall, after the date of expiration specified in the license, post, in addition to the original license, any acknowledgment received from the Commission that the renewal application has been accepted for filing or a signed copy of the application for renewal of license which has been submitted by the licensee, or in services other than common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

* * * * *

PART 5—EXPERIMENTAL RADIO SERVICE

■ 5. The authority citation for Part 5 continues to read as follows:

Authority: Secs. 4, 302, 303, 307, 336 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, 336. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

■ 6. Amend § 5.203 by revising paragraph (b) to read as follows:

§ 5.203 Experimental authorizations for licensed broadcast stations.

* * * * *

(b) Experimental authorizations for licensed broadcast stations may be requested by filing an informal application with the FCC in Washington, DC, describing the nature and purpose of the experimentation to be conducted, the nature of the experimental signal to be transmitted, and the proposed schedule of hours and duration of the experimentation.

PART 73—RADIO BROADCAST SERVICES

■ 7. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

■ 8. Amend § 73.158 by revising paragraph (b) to read as follows:

§ 73.158 Directional antenna monitoring points.

* * * * *

(b) When the description of the monitoring point as shown on the station license is no longer correct due to road or building construction or other changes, the licensee must prepare and file with the FCC, in Washington, DC, a request for a corrected station license showing the new monitoring point description. The request shall include the information specified in paragraphs (a)(3) and (a)(4) of this section, and a copy of the station's current license.

§ 73.801 [Amended]

■ 9. Amend § 73.801 by removing the reference for Section 73.1230.

§ 73.1230 [Removed]

■ 10. Remove § 73.1230.

■ 11. Amend § 73.1715 by revising paragraph (a) to read as follows:

§ 73.1715 Share Time.

* * * * *

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall

be in writing and each licensee shall file it in duplicate original with each application to the FCC in Washington, DC for renewal of license. If and when such written agreements are properly filed in conformity with this Section, the file mark of the FCC will be affixed thereto, one copy will be retained by the FCC, and one copy returned to the licensee. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license

* * * * *

■ 12. Amend § 73.1725 by revising paragraph (c) to read as follows:

§ 73.1725 Limited time.

* * * * *

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the Class A station (or stations) on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule. It shall bear a signed notation by the licensee of the Class A station of its objection or lack of objection thereto. Upon approval of such operating schedule, the FCC will affix its file mark and return one copy to the licensee authorized to operate limited time. Departure from said operating schedule will be permitted only pursuant to § 73.1715 (Share time).

■ 13. Amend § 73.1870 by revising paragraph (b)(3) to read as follows:

§ 73.1870 Chief operators.

* * * * *

(b) * * *

(3) The designation of the chief operator must be in writing. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 14. The authority citation for Part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336, and 554.

■ 15. Amend § 74.432 by revising paragraph (j) to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(j) The license shall be retained in the licensee's files at the address shown on the authorization.

* * * * *

§ 74.564 [Removed]

■ 16. Remove § 74.564.

§ 74.664 [Removed]

■ 17. Remove § 74.664.

§ 74.765 [Removed]

■ 18. Remove § 74.765.

§ 74.733 [Amended]

■ 19. Amend § 74.733 by removing paragraph (i) and redesignating paragraph (j) as new paragraph (i).

■ 20. Amend § 74.781 by revising paragraph (c) to read as follows:

§ 74.781 Station Records.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The station records shall be made available upon request to any authorized representative of the Commission.

* * * * *

■ 21. Amend § 74.787 by removing paragraph (a)(3)(viii) to read as follows:

§ 74.787 Digital licensing.

(a) * * *

(3) * * *

(viii) The following sections are applicable to analog-to-digital and digital-to-digital replacement television translator stations:

* * * * *

■ 22. Amend § 74.832 by revising paragraph (j) to read as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(j) The license shall be retained in the licensee's files at the address shown on the authorization.

§ 74.1265 [Removed]

■ 23. Remove § 74.1265.

■ 24. Amend § 74.1281 by revising paragraph (c) to read as follows:

§ 74.1281 Station Records.

* * * * *

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The station records shall be made available upon request to any authorized representative of the Commission.

* * * * *

[FR Doc. 2018–13282 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 83, No. 127
Monday, July 2, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Idaho (Boise, Caribou-Targhee, Salmon-Challis, and Sawtooth National Forests and Curlew National Grassland); Nevada (Humboldt-Toiyabe National Forest); Utah (Ashley, Dixie, Fishlake, Manti-La Sal, and Uinta-Wasatch-Cache National Forests); Wyoming (Bridger-Teton National Forest); and Wyoming/Colorado (Medicine Bow-Routt National Forest and Thunder Basin National Grassland) Amendments to Land Management Plans for Greater Sage-grouse Conservation; Correction

AGENCY: Forest Service, USDA.

ACTION: Supplemental notice of intent to prepare an environmental impact statement; notice of updated information concerning the forest service greater sage-grouse land and resource management plan amendments; correction.

SUMMARY: The Forest Service published a document in the **Federal Register** of June 20, 2018, soliciting public comments on a greater sage-grouse land management proposed action that could warrant land management plan amendments. The document contained errors in the following sections: **SUMMARY** and **SUPPLEMENTARY INFORMATION** (including Purpose and Need, Proposed Action, Scoping Process and Responsible Officials). The intent of the corrections in this notice is to clarify that the Forest Service does not propose to amend plans for National Forest System lands in Montana. In addition, the comment period has been extended to close 30 days from publication of this correction notice.

DATES: The comment period for the document published on June 20, 2018 (83 FR 28608 is extended. Comments concerning the scope of the analysis must be received by August 1, 2018.

ADDRESSES: Please submit comments via one of the following methods:

1. *Public participation portal (preferred): https://cara.ecosystem-management.org/Public/CommentInput?project=52904.*

2. *Mail:* Sage-grouse Amendment Comment, USDA Forest Service Intermountain Region, Federal Building, 324 25th Street, Ogden, UT 84401.

3. *Email: comments-intermtnregional-office@fs.fed.us.*

4. *Facsimile:* 801–625–5277.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received online via the public reading room at: *https://cara.ecosystem-management.org/Public/ReadingRoom?project=52904.*

FOR FURTHER INFORMATION CONTACT: John Shivik at 801–625–5667 or email *johnashivik@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** of June 20 2018, in FR Doc. 2018–13260 (83 FR 28608), make the following corrections:

1. On page 28608, in the third column, correct the **SUMMARY** to read as follows:

SUMMARY: This supplemental notice solicits public comments on a greater sage-grouse land management proposed action that could warrant land management plan amendments. Land management plans for National Forests and Grasslands in Idaho, Montana, Nevada, Utah, Colorado and Wyoming were amended in September 2015 to incorporate conservation measures to support the continued existence of the greater sage-grouse. Since the plans were amended in 2015, scoping on specific issues was requested in a Notice of Intent (NOI) published in the **Federal Register** on November 21, 2017. This supplemental NOI continues the scoping effort by seeking comments about a proposed action to make further amendments to the plans, excluding plans for National Forest System lands in Montana. This supplemental NOI also identifies the planning rule provisions likely to be directly related, and so applicable, to proposed plan amendments.

2. On page 28609, in the first column, correct the first paragraph of the **SUPPLEMENTARY INFORMATION** to read as follows:

SUPPLEMENTARY INFORMATION: The Forest Service is proposing to amend several Forest Service land management plans that were amended in 2015 regarding greater sage-grouse conservation in the states of Colorado, Idaho, Nevada, Wyoming and Utah. This notice clarifies the purpose and need, proposed action, and the responsible officials, which were not identified in the scoping on specific issues that were requested in a Notice of Intent published in the **Federal Register** on November 21, 2017 (2017 NOI) (82 FR 55346). The Forest Service is proposing amendments to land management plans that were amended in 2015.

3. On page 28609, in the second column, correct the ''Purpose and Need'' paragraph to read as follows:

Purpose and Need

The Forest Service published the 2017 NOI to consider the possibility of amending land management plans for greater sage-grouse that were originally amended in 2015 in the states of Colorado, Idaho, Nevada, Wyoming, Utah and Montana (2015 Sage-Grouse Plan Amendments). The purpose of this supplemental notice is to propose amendments to the 2015 Sage Grouse Plan Amendments, excluding plans for National Forest System lands in Montana. The need for further plan amendments is that the Forest Service has gained new information and understanding from the 55,000 comments received as a result of the 2017 NOI, within-agency scoping, and from coordination with the Sage Grouse Task Force (with members from state agencies, Bureau of Land Management, Fish and Wildlife Service and the Natural Resources Conservation Service). The purpose of the proposed action is to incorporate new information to improve the clarity, efficiency, and implementation of affected plans, including better alignment with the Bureau of Land Management (BLM) and state plans, in order to benefit greater sage-grouse conservation on the landscape scale.

4. On page 28609, in the third column, correct the first paragraph of ''Proposed Action'' to read as follows:

Proposed Action

The scope and scale of the proposed action is on approximately 6 million acres of greater sage-grouse habitat on National Forest System lands in the Intermountain and Rocky Mountain Regions. Specific textual adjustments currently under consideration can be found on the Intermountain Region home page: *https://www.fs.usda.gov/detail/r4/home/?cid=stelprd3843381.*

5. On page 28610, in the first column, correct the ''Scoping Process'' paragraph to read as follows:

Scoping Process

The Forest Service is proposing amendments to affected land management plans in Colorado, Idaho, Nevada, Wyoming and Utah to change some of the plan components added in 2015. Public involvement is important for adding meaningful participation from the early phases of planning through finalization of the plan amendments and subsequent monitoring. A public participation strategy has been designed to assist with communication within the Forest Service and between the Forest Service and the public. Find the strategy here: *https://www.fs.usda.gov/detail/r4/home/?cid=stelprd3843381.*

6. On page 28610, in the first column, correct the ''Responsible Officials'' paragraph to read as follows:

Responsible Officials

The responsible officials who would approve plan amendments are the Regional Foresters for the Intermountain and Rocky Mountain Regions.

Dated: June 25, 2018.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–14282 Filed 6–29–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service (NASS), USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Cost of Pollination Survey. This survey gathers data related to the costs incurred by farmers to improve the pollination of their crops through the use of honey bees and other pollinators.

DATES: Comments on this notice must be received by August 31, 2018 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0258, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *eFax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cost of Pollination Survey.

OMB Control Number: 0535–0258.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue state and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture, and also to conduct the Census of Agriculture.

Pollinators (honey bees, bats, butterflies, hummingbirds, etc.) are vital to the agricultural industry for pollinating numerous food crops for the world's population. Concern for honey bee colony mortality has risen since the introduction of *Varroa* mites in the United States in the late 1980s and the appearance of Colony Collapse Disorder in the past decade.

In the Pollinator Research Action Plan, the Pollinator Health Task Force identified nearly 200 tasks that need to be conducted and coordinated from across the government to research all aspects of pollinator health and to come up with suggestions for improving this vital part of our food system. The Task Force's plan involves conducting research and collecting data for the following categories: Status & Trends, Habitats, Nutrition, Pesticides, Native Plants, Collections, Genetics, Pathogens, Decision Tools, and Economics. The pollinators have been classified into Honey Bee, Native Bee, Wasp, Moth/Butterfly, Fly, and Vertebrate. The departments that conduct the bulk of the research are the Department of the Interior (DOI), the Environmental Protection Agency (EPA), the National Science Foundation (NSF), the Smithsonian Institute (SI), and the United States Department of Agriculture (USDA).

NASS was given the tasks of collecting economic data related to honey bees and quantifying the number of colonies that were lost or reduced. NASS was approved to conduct the Quarterly and Annual Colony Loss Surveys under OMB approval number 0535–0255. NASS also collects the economic data under this collection. NASS collects data from crop farmers who rely on pollinators for their crops (fruits, nuts, vegetables, etc.). Data relating to the targeted crops are collected for the total number of acres that rely on honey bee pollination, the number of honey bee colonies that were used on those acres, and any cash fees associated with honey bee pollination. Crop Farmers are also asked if beekeepers who were hired to bring their bees to their farm were notified of pesticides used on the target acres, how many acres they were being hired to pollinate, and how much they were being paid to pollinate the targeted crops.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and the Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential

Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33376.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response. Publicity materials and an instruction sheet for reporting via internet will account for 5 minutes of additional burden per respondent. Respondents who refuse to complete a survey will be allotted 2 minutes of burden per attempt to collect the data.

Once a year, NASS will contact approximately 20,000 crop farmers who rely on honey bees to pollinate their fruit, nut, vegetable, and other crops. NASS will conduct the annual survey using a mail and internet approach. This will be followed up with phone and personal enumeration for non-respondents. NASS will attempt to obtain at least an 80% response rate.

Respondents: Farmers.

Estimated Number of Respondents: 20,000.

Estimated Total Annual Burden on Respondents: With an estimated response rate of approximately 80%, we estimate the burden to be 6,100 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, June 20, 2018.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2018–14156 Filed 6–29–18; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Mink Survey. The target population will be pulled from the NASS List Frame of operations with positive historical data. The frame is updated with the names of new operations that are found in trade magazines or grower's association's lists. The questionnaires that NASS is planning to use are the same as what was used in previous years. Any additional changes to the questionnaires would result from requests by industry data users.

DATES: Comments on this notice must be received by August 31, 2018 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0212, by any of the following methods:

- *Email: omboffi cer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *omboffi cer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Mink Survey.

OMB Control Number: 0535–0212.

Expiration Date of Approval: November 30, 2018.

T*ype of Request:* Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Mink Survey collects data on the number of mink pelts produced, the number of females bred, and the number of mink farms. Mink estimates are used by the federal government to calculate total value of sales and total cash receipts, by State governments to administer fur farm programs and health regulations, and by universities in research projects. The current expiration date for this docket is November 30, 2018. NASS intends to request that the Mink Survey be approved for another 3 years.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*), and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response for the producers and approximately 30 minutes per response for the buyers. NASS plans to mail out publicity materials with the questionnaires to inform operators of the importance of these surveys. NASS will also use multiple mailings, followed up with phone and personal enumeration to increase response rates and to minimize data collection costs.

Respondents: Farmers and ranchers.

Estimated Number of Respondents: 300.

Estimated Total Annual Burden on Respondents: 85 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, June 20, 2018.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2018–14147 Filed 6–29–18; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2018]

Foreign-Trade Zone (FTZ) 38—Charleston, South Carolina; Authorization of Production Activity; BMW Manufacturing Co., LLC (Hybrid Passenger Vehicles); Spartanburg, South Carolina

On February 27, 2018, BMW Manufacturing Co., LLC (BMW) submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 38A, in Spartanburg, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 9828, March 8, 2018). On June 27, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and further subject to a restriction requiring that polyester band, acrylic coated cloth tape, warp knit fabric, and seat protectors be admitted in privileged foreign status (19 CFR 146.41).

Dated: June 27, 2018.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2018–14181 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–16–2018]

Foreign-Trade Zone (FTZ) 61—San Juan, Puerto Rico; Authorization of Production Activity; Janssen Ortho LLC; (Pharmaceuticals); Gurabo, Puerto Rico

On February 27, 2018, Janssen Ortho LLC submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 61N, in Gurabo, Puerto Rico.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 10838–10839, March 13, 2018). On June 27, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 27, 2018.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2018–14182 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–865]

Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the People's Republic of China (China), covering the period of review (POR) November 1, 2016, through October 31, 2017, and finds preliminarily that Baosteel Group Corporation, Shanghai Baosteel International Economic & Trading Co., Ltd., Baoshan Iron and Steel Co., Ltd., Shanghai Meishan Iron & Steel, and Union Steel China have not demonstrated that they are separate from the China-wide entity. Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington DC 20230; telephone (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on hot-rolled steel from China pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (Act). On November 29, 2001, the Department published in the **Federal Register** an antidumping duty order on hot-rolled steel from China.[1] On November 30, 2017, Nucor Corporation (Nucor) submitted a request for an administrative review of Baosteel,[2] Shanghai Meishan Iron & Steel, and Union Steel China.[3] On January 11, 2018, pursuant to the request from Nucor, Commerce published a notice of initiation of an administrative review of the antidumping duty order on hot-rolled steel from China covering the period November 1, 2016, to October 31, 2017, for Baosteel, Shanghai Meishan Iron & Steel, and Union Steel China.[4]

Scope of the Order

The products covered by the order are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness.

[1] *See Notice of Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China,* 66 FR 59561 (November 29, 2001).

[2] Because no party is challenging the prior collapsing determination, we continue to collapse Baosteel Group Corporation, Shanghai Baosteel International Economic & Trading Co., Ltd., and Baoshan Iron and Steel Co., Ltd. (collectively, Baosteel). *See Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China: Final No Shipments Determination of Antidumping Duty Administrative Review; 2012–2013;* 79 FR 67415 (November 13, 2014).

[3] *See* Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China: Request for Administrative Review, dated November 30, 2017.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 1329 (January 11, 2018) (*Initiation Notice*).

Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1,250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included within the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is two percent or less, by weight; and, (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, for example, are outside or specifically excluded from the scope of the order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to the order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90.

Certain hot-rolled carbon steel flat products covered by the order, including: Vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Preliminary Results of Review

In the *Initiation Notice,* Commerce granted Baosteel, Shanghai Meishan Iron & Steel, and Union Steel China 30 days to submit a separate rate application or certification. Neither Baosteel, Shanghai Meishan Iron & Steel, nor Union Steel China submitted a separate rate application or certification, or a no shipments certification; therefore, we consider these companies to be part of the China-wide entity. Because no review was requested of the China-wide entity, the pre-existing China-wide rate of 90.83 percent will apply to entries of their subject merchandise into the United States during the POR.

Disclosure and Public Comment

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results of review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of the preliminary results of review in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily determined these companies to be part of the China-wide entity, in this administrative review, there are no calculations to disclose.

Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[5] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[6] Case and rebuttal briefs must be filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[7]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[8] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in

[5] *See* 19 CFR 351.309(d).
[6] *See* 19 CFR 351.309(c)(2) and (d)(2).
[7] *See* 19 CFR 351.303.
[8] *See* 19 CFR 351.310(c).

the hearing will be limited to those raised in the respective case and rebuttal briefs.

Commerce will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, Commerce will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[9] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[10]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Baosteel, Shanghai Meishan Iron & Steel, and Union Steel China, which did not qualify for separate rate, the cash deposit rate will be China-wide rate of 90.83 percent; (2) for previously investigated or reviewed China and non-China exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be China-wide rate of 90.83 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 25, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–14179 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See* 19 CFR 351.212(b)(1).

[10] *See* 19 CFR 351.106(c)(2).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–080]

Cast Iron Soil Pipe From the People's Republic of China: 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 cast iron soil pipe (soil pipe) from the People's Republic of China (China). The period of investigation is January 1, 2017, through December 31, 2017.

DATES: Applicable July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Omar Qureshi or Annathea Cook, 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) 482–5307 or (202) 482–0250, 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 23, 2018.[1] On April 9, 2018, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 25, 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 soil 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] No interested party commented on the scope of the

[1] *See Cast Iron Soil Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 8047 (February 23, 2018) (*Initiation Notice).*

[2] *See Countervailing Duty Investigation of Cast Iron Soil Pipe from the People's Republic of China: Postponement of Preliminary Determination,* 83 FR 15129 (April 9, 2018).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Cast Iron Soil 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.*

investigation as it appeared in the *Initiation Notice.*

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.[6]

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.[7] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, 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 soil pipe from China based on a request made by the petitioner.[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 7, 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 examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Yuncheng Jiangxian Economic Development Zone HengTong Casting Co. Ltd. (HengTong), the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average rate calculated for HengTong is the rate assigned to all-other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Kingway Pipe Co., Ltd	111.20
Yuncheng Jiangxian Economic Development Zone HengTong Casting Co. Ltd[9]	13.11
All-Others	13.11

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 interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, 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.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, 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 determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 25, 2018.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe, whether finished or unfinished, regardless of industry or proprietary specifications, and regardless of wall thickness, length, diameter, surface

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* the petitioner's Letter, ''Cast Iron Soil Pipe from the People's Republic of China: Request to Align Preliminary Determinations,'' dated June 12, 2018.

[9] As discussed in the Preliminary Decision Memorandum, Commerce has found Yuncheng Jiangxian Economic Development Zone HengTong Casting Co. Ltd. to be cross-owned with Quwo Hengtong Casting Limited Company.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

finish, end finish, or stenciling. The scope of this investigation includes, but is not limited to, both hubless and hub and spigot cast iron soil pipe. Cast iron soil pipe is nonmalleable iron pipe of various designs and sizes. Cast iron soil pipe is generally distinguished from other types of nonmalleable cast iron pipe by the manner in which it is connected to cast iron soil pipe fittings.

Cast iron soil pipe is classified into two major types—hubless and hub and spigot. Hubless cast iron soil pipe is manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888, including any revisions to those specifications. Hub and spigot pipe has one or more hubs into which the spigot (plain end) of a fitting is inserted. 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.

The subject imports are currently classified in subheading 7303.00.0030 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2018–14180 Filed 6–29–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG319

Marine Mammals; File Nos. 22292 and 22294

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that Icon Films, 3rd Floor College House, 32–36 College Green, Bristol, BS1 5SP, United Kingdom (Responsible Party: Laura Marshall) (File No. 22292), and Plimsoll Productions, Whiteladies House, 51–55 Whiteladies Road, Clifton, Bristol, BS8 2LY, United Kingdom (Responsible Party: Bill Markham) (File No. 22294) have applied in due form for permits to conduct commercial or educational photography on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before August 1, 2018.

ADDRESSES: These documents are 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 these applications 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 these applications would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Icon Films (File No. 22292) proposes to film killer whales (*Orcinus orca*) and harbor seals (*Phoca vitulina*) in the waters off Seward, AK. Filmmakers may approach up to 100 killer whales to film from boats, pole cameras, or an unmanned aircraft system. Fifty harbor seals may be approached and filmed from a boat. The goal of the project is to obtain footage of killer whales feeding on Chinook salmon for use in a documentary television show to air on Animal Planet in 2019. The permit would be valid until August 30, 2018.

Plimsoll Productions (File No. 22294) proposes to film bottlenose dolphins (*Tursiops truncatus*) in and around Indian River Lagoon, the Banana River, and Mosquito Lagoon, FL. Filming would occur after sunset, from approximately 10 p.m. to 2 a.m. over 14 days in August and September 2018. Specialized cameras onboard a boat, attached to poles for underwater filming, and on an unmanned aircraft system would be used to film dolphins swimming through bioluminescence. Up to 84 dolphins may be harassed during filming. The footage would be used in a wildlife documentary series about unique animal behaviors and adaptations to living in the dark. The permit would be valid until October 1, 2018.

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 activities proposed are 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 applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 26, 2018.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–14106 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG271

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Exempted Fishing Permits

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

ACTION: Notice of receipt of an application for exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Florida Fish and Wildlife Conservation Commission (FWC). If granted, the EFP would authorize the deployment of modified wire spiny lobster traps in the Federal waters of the South Atlantic. The project would seek to determine the effectiveness of these traps, as applicable, for attracting and collecting invasive lionfish while avoiding impacts to non-target species, protected species, and habitats.

DATES: Written comments must be received on or before August 1, 2018.

ADDRESSES: You may submit comments on the application, identified by ''NOAA–NMFS–2018–0068'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0068,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the application and programmatic environmental assessment (PEA) may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/LOA_and_EFP/2018/Lionfish/Lionfish%20EFP.html.*

FOR FURTHER INFORMATION CONTACT: Frank Helies, 727–824–5305; email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Lionfish is an invasive marine species that occurs in both the Gulf of Mexico (Gulf) and South Atlantic. The harvest of lionfish in the Federal waters of the Gulf and South Atlantic is not currently managed by NMFS. The EFP application submitted to NMFS involves the use of prohibited gear in Federal waters. Federal regulations prohibit the use or possession of a fish trap in Federal waters in the Gulf and South Atlantic (50 CFR 622.9(c)). In South Atlantic Federal waters, the term ''fish trap'' refers to a trap capable of taking fish, except for a seabass pot, a golden crab trap, or a crustacean trap (50 CFR 622.2). The EFP would exempt these research activities from the regulation prohibiting the use or possession of a fish trap in Federal waters of the South Atlantic at 50 CFR 622.9(c), and would allow the applicant to use spiny lobster traps to target lionfish.

The applicant seeks an EFP to test the effectiveness of different trap modifications in capturing lionfish in the South Atlantic while avoiding impacts to non-target species, protected species, and habitats. NMFS analyzed the effects of testing traps that target lionfish on the environment, including effects on Endangered Species Act (ESA)-listed species and designated critical habitat, and other non-target species and habitat, in the Gulf and South Atlantic regions through a PEA. Before issuing the permit, NMFS will analyze whether the proposed effort fits within the scope of the PEA and the ESA analysis on the expected effort under the PEA. If the proposed activities fit within the PEA and the ESA consultation, NMFS will document that determination for the record. Otherwise, NMFS will complete the required analyses.

The specific EFP request noticed here is further described and summarized below.

FWC is requesting authorization to test standard and modified wire spiny lobster traps in the South Atlantic to harvest lionfish aboard federally permitted commercial spiny lobster fishing vessels. The proposed research would examine the effectiveness and performance of modified trap designs for capturing lionfish, with the goal of identifying the best lobster trap modification to maximize lionfish catch and reduce bycatch of other species. Traps would be fished in a trawl configuration with a maximum of 32 traps and 2 surface buoys per trawl. Spiny lobster trap modifications to be tested by the applicant would include funnel and escape gap dimensions and locations, in addition to bait types. Some traps would be outfitted with lionfish optical recognition technology. Modified traps would be compared to standard wire spiny lobster trap controls. Sampling with the traps would occur in water depths from 100–300 feet (30–91 meters) between Alligator Reef and Looe Key Reef in the Florida Keys, approximately twice per month, per year throughout the effectiveness of any issued EFP. Only areas open to commercial lobster fishing will be included in the study area. No more than 100 traps would be deployed in the water at any given time, and soak times would vary, but they would not exceed 21 days per deployment. FWC anticipates completing a maximum of 40 sampling trips per year. Bait could include live lionfish, plastic decoy lionfish, artificial lures, fish oil, and fish heads. As practicable, video and still photos of trap deployment and animal behavior in and near traps would be recorded using cameras.

FWC would contract commercial trap fishermen with experience fishing within the study area. Additionally, the contractors must have demonstrable experience in the catch and handling of lionfish. The applicant expects the research to be conducted from up to two federally permitted commercial fishing vessels. At least one FWC scientist would be onboard a vessel at all times. Data to be collected per trip would include: Gear configuration and fishing effort data (*e.g.,* date and time of deployment and retrieval, latitude, longitude, and water depth of each deployed trawl, bait type used); soak time for each trawl; trap loss and movement from original set position; protected species interactions; bycatch species (amount, length, and disposition); and lionfish catch data for each trap type. All non-commercially viable bycatch species would be returned to the water as soon as possible. Depending on FWC's commercial vendor selected, those species that are legally allowed to be commercially harvested in Federal waters by the contracted commercial fishermen may be retained as commercial catch as long as the harvest and retention complies with applicable laws and regulations (*e.g.,* permitted commercial fishermen may retain species of the legal size taken during the applicable season from appropriate areas using legal gears and vessels, consistent with applicable laws and regulations). Representative sub-samples of fish would be collected for species identification verification in the laboratory by FWC, as needed.

The applicant has requested the EFP be effective for a 3-year period from the date the EFP is issued.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition on conducting research within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special protections for ESA-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on

the application, consultations with the appropriate fishery management agencies of the affected states, Councils, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws and regulations.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 2018.

Margo B. Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14102 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG323

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public hearings, request for comments

SUMMARY: The New England Fishery Management Council (Council) will hold five public hearings to solicit Public comments on Draft Amendment 22 to the Northeast Multispecies Fishery Management Plan (FMP), including a Draft Environmental Impact Statement (DEIS). To meet the purpose and need, this amendment proposes alternatives that would initiate a limited access program for the small-mesh multispecies fishery, adjust whiting and red hake possession limits, and modify permit types and characteristics making them consistent with limited access.

DATES: These meetings will be held between July 19–26, 2018. For specific dates and times, see **SUPPLEMENTARY INFORMATION**. Written or Electronic Public comments must be received on or before 5 p.m. EST, August 6, 2018.

ADDRESSES: The hearing documents are accessible electronically via the internet *https://www.nefmc.org/library/amendment-22* or by request to Thomas A. Nies, Executive Director. New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone: (978) 465–0492.

Meeting address: The meetings will be held in Gloucester, MA; Tinton Falls, NJ; Montauk, NY; Warwick, RI and New Bedford, MA. For specific locations, see **SUPPLEMENTARY INFORMATION.**

Public Comments: Written public hearing comments on the DEIS for Amendment 22 may be sent by any of the following methods: Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; email to the following address: *comments@nefmc.org* with ''DEIS for Amendment 22 to the Northeast Multispecies FMP '' in the subject line. Or fax to (978) 465–3116.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Public Hearing, Dates and Locations:

The agenda for the following five hearings is as follows: Council staff will brief the public on the amendment's alternatives and the contents of the DEIS prior to opening the hearing for public comments and the schedule is as follows:

Public Hearings: Locations, Schedules, and Agendas

1. *Thursday, July 19, 2018, 4–6 p.m.,* MA DMF of Marine Fisheries, Annisquam River Marine Fisheries Station, 30 Emerson Ave, Gloucester, MA 01930;

2. *Monday, July 23, 2018, 7–9 p.m.,* DoubleTree by Hilton, 700 Hope Drive, Tinton Falls, NJ 07244;

3. *Tuesday, July 24, 2018, 5–7 p.m.,* Montauk Playhouse Community Center Foundation Inc., 240 Edgemere Street, Montauk, NY 11954;

4. *Wednesday, July 25, 2018, 7–9 p.m.,* Hampton Inn & Suites, 2100 Post Road, Warwick, RI 02886;

5. *Thursday, July 26, 2018, 7–9 p.m.,* Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740.

Additional information on the review is available on the Council website, *www.nefmc.org.* The public also should be aware that the hearings will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated:

June 27, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14138 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG314

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team (CPSMT) will hold a meeting via webinar that is open to the public.

DATES: The webinar will be held Monday July 23, 2018, from 2 p.m. to 4 p.m., or until business has been completed.

ADDRESSES: The meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar, use this link: *https://www.gotomeeting.com/webinar* (click ''Join a Webinar'' in top right corner of page); (1) Enter the Webinar ID: 683–377–106; (2) Enter your name and email address (required). You must use your telephone for the audio portion of the meeting by dialing this TOLL number: 1–631–992–3221; (3) Enter the Attendee phone audio access code 217–555–003; (4) Enter your audio phone pin (shown after joining the webinar). *Note:* We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (see *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE

Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the CPSMT to develop a range of alternatives for an amendment to the CPS Fishery Management Plan that would address changes in the catch allowances for the CPS live bait fishery when a CPS stock is in an overfished condition. The Council established a process that includes adopting a range of alternatives at the September 2018 meeting and final action at the November 2018 meeting. As time allows, the CPSMT may discuss other topics on the agenda for the Council's September meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at *kris.kleinschmidt@noaa.gov;* telephone: (503) 820–2411 at least 10 days prior to the meeting date.

Dated: June 27, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14134 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG322

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Atlantic Mackerel, Squid, and Butterfish Advisory Panel and River Herring and Shad Advisory Panel of the Mid-Atlantic Fishery Management Council (Council) will hold a joint meeting.

DATES: The meeting will be held on Tuesday, July 17, 2018, from 8:30 a.m. to 12:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only audio connection to participate: *http://mafmc.adobeconnect.com/msb-rh-s/.* Telephone instructions are provided upon connecting, or the public can call direct: (800) 832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide input on the pending framework action that addresses mackerel rebuilding, mackerel specifications, and the river herring and shad cap for the mackerel fishery.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

Dated: June 27, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14137 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG315

Fisheries of the Caribbean; Southeast Data, Assessment, and Review (SEDAR); Post-Data Workshop Webinar for Caribbean Spiny Lobster

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

ACTION: Notice of SEDAR 57 Post-Data Workshop Webinar for Caribbean spiny lobster.

SUMMARY: The SEDAR 57 stock assessment process for Caribbean spiny lobster will consist of a Data Workshop, a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 57 Post-Data Workshop Webinar will be held July 24, 2018, from 1 p.m. to 3 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff

of Councils, Commissions, and state and federal agencies.

The items of discussion during the Data Webinar are as follows:

Panelists will review and discuss outstanding issues from the Data Workshop for data sets being considered for the assessment and may discuss initial modeling efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 27, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14135 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG321

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Atlantic Mackerel, Squid, and Butterfish Committee and River Herring and Shad Committee of the Mid-Atlantic Fishery Management Council (Council) will hold a joint meeting.

DATES: The meeting will be held on Wednesday, July 18, 2018, from 8:30 a.m. to 12:30 p.m.. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only audio connection to participate: *http://mafmc.adobeconnect.com/msb-rh-s/.* Telephone instructions are provided upon connecting, or the public can call direct: (800) 832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop recommendations to the Council on the pending framework action that addresses Atlantic mackerel rebuilding, 2019–21 Atlantic mackerel specifications, and the river herring and shad cap for the Atlantic mackerel fishery.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

Dated: June 27, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–14136 Filed 6–29–18; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and deletions from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products from the Procurement List previously furnished by such agencies.

DATES: *Date added to the Procurement List:* 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: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 3/16/2018 (83 FR 52), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of a qualified the nonprofit agency to provide the products and impact of the addition on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.

2. The action will result in authorizing a small entity to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN(s)—Product Name(s):
- MR 11300—Water Bottle, Travel, Addison, 24 oz.
- MR 11305—Water Bottle, Travel, Cortland, 24 oz.
- MR 11308—Tumbler, Travel, Shake and Go, 20 oz.
- MR 11312—Mug, Travel, Stainless Steel, West Loop 2.0, 20 oz.
- MR 11314—Mug, Travel, Stainless Steel, West Loop 2.0, 16 oz.
- MR 11319—Mug, Travel, Stainless Steel, Classic, 20 oz.

Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY

Contracting Activity: Defense Commissary Agency

Distribution: C-List

Deletions

On 5/18/2018 (83 FR 97) and 5/25/2018 (83 FR 102), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

NSN(s)—Product Name(s):
MR 1188—MR Towel Set, Christmas, Includes Shipper 11188
MR 1189—Drying Mat, Microfiber, Holiday Themed
MR 1162—Apron, Father's Day
MR 863—Lint Remover, Roller Type
MR 864—Refill, Lint Roller
Mandatory Source of Supply: Alphapointe, Kansas City, MO

NSN(s)—Product Name(s):
MR 358—Serving Bowl, Patriotic, Plastic 7Qt
MR 351—Containers, Storage, 20PG
MR 329—Silicone Mini Turner
MR 1056—Mop, Spray, Wet
MR 328—Silicone Mini Brush
MR 318—Set, Mixing Bowl, Spill-Free, 3PC
MR 302—Silicone Batter Spoon
MR 303—Silicone Whisk
MR 304—Silicone Tong w/Locking Handle
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI

NSN(s)—Product Name(s):
MR 10658—Loopity Loop Sipper, 11-Ounce, Includes Shipper 20658
MR 10657—Pop Tart Saver, Includes Shipper 20657
MR 10732—Hershey's Lava Cake Maker, Shipper 20732
MR 10733—Reese's Lava Cake Maker, Shipper 20732
MR 10659—Container Set, Soup and Salad, Includes Shipper 20659
MR 10731—Garden Colander. Includes Shipper 20731
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

NSN(s)—Product Name(s): MR 3211—Ouchless Headband Flat
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY

NSN(s)—Product Name(s): MR 896—Turner, Flexible, Thin, 11.5″ x 12″ x 4″
Mandatory Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH

The following information is applicable to all products listed above.

Contracting Activity: Defense Commissary Agency

NSN(s)—Product Name(s): 7530–01–600–2030—Notebook, Stenographer's, Biobased Bagasse Paper, 6 x 9″, 80 sheets, Gregg Rule, White
Mandatory Source of Supply: The Arkansas Lighthouse for the Blind, Little Rock, AR
Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s):
7510–01–545–3765—DAYMAX System, 2017, Calendar Pad, Type I
7510–01–545–3730—DAYMAX System, 2017, Calendar Pad, Type II
Mandatory Source of Supply: Anthony Wayne Rehabilitation Ctr for Handicapped and Blind, Inc., Fort Wayne, IN
Contracting Activity: General Services Administration, New York, NY

NSN(s)—Product Name(s): 6532–00–197–8201—Hood, Operating, Surgical, White
Mandatory Source of Supply: UNKNOWN
Contracting Activity: Department of Veterans Affairs, Strategic Acquisition Center

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–14093 Filed 6–29–18; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2018–0002]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Survey on Smoke and Carbon Monoxide Alarms

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) announces that CPSC has submitted to the Office of Management and Budget (OMB), a new proposed collection of information by the agency on a survey that will estimate the use of smoke and carbon monoxide (CO) alarms in United States households. In the **Federal Register** of March 20, 2018 (83 FR 12178), CPSC published a notice announcing the agency's intent to seek approval of this collection of information. CPSC received several comments in response to that notice. After review and consideration of the comments, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for approval of this collection of information.

DATES: Written comments on this request for approval of information collection requirements should be submitted by August 1, 2018.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881.

Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2018–0002.

FOR FURTHER INFORMATION CONTACT: Charu Krishnan, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7221, or by email to: *CKrishnan@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Comments

On March 20, 2018, the CPSC published a notice in the **Federal Register** announcing the agency's intent to seek approval of a new collection of information on a national in-home survey that will estimate the use and functionality of smoke and CO alarms in households, as well as user hazard perceptions regarding such alarms. (83 FR 12178). CPSC received three comments in response to that notice. Two commenters did not address the survey or any issues related to the survey, but instead, raised concerns about climate change. One commenter, the International Code Council (ICC), supported the information collection. The ICC stated that it promulgates residential and commercial building safety codes and that having reliable data to analyze the scope of use and effectiveness of the detection devices will improve public safety.

Accordingly, after consideration of these comments, CPSC will request approval from OMB for this collection of information.

B. Survey

CPSC has entered into a contract with Eureka Facts to conduct a national in-home survey that will estimate the use and functionality of smoke and CO alarms in households, as well as user hazard perceptions regarding such alarms. The information collected from this survey will provide CPSC updated national estimates regarding the use of smoke alarms and CO alarms in households, based on direct observation of alarm installations. The survey also will help CPSC identify the groups that do not have operable smoke alarms and/or CO alarms and the reasons they do not have such alarms. With this information, CPSC will be able to target its messaging better and improve consumer use and awareness regarding the operability of these alarms. In addition, the survey results will help to inform CPSC's recommendations to voluntary standards groups and state/local jurisdictions regarding their codes, standards, and/or regulations on smoke and CO alarms.

The survey seeks to collect information from 1,185 households within the United States, with an initial group of 50 households that will be processed and analyzed to identify any issues regarding the survey instrument and data collection procedures. The survey will use a mixed-mode, multistage approach to data collection. The data will be collected through two modes: Face-to-face in-home interviews and telephone surveys. The survey instrument will be programmed on Vovici software and will be administered via in-home interviews using a Computer-Assisted Personal Interview (CAPI) format, or by telephone, using a Computer-Assisted Telephone Interview (CATI) format.

Smoke alarms are more prevalent in homes than CO alarms are. Accordingly, during the screening process, if respondents indicate that they have a smoke alarm that may be tested directly, the respondents will be scheduled for an in-home interview for the full survey. However, if the smoke alarm cannot be tested directly because the household does not have a smoke alarm installed, or the smoke alarms are connected to a central alarm system that will notify the police or fire department, the respondent is not eligible for the in-home survey. Instead of the in-home survey, these households would be given a subset of survey questions about safety attitudes and demographics that would be collected over the telephone. For participants eligible for in-home interviews, a two-member survey team will ask household residents questions related to installed smoke and CO alarms. The survey team will then test residents' smoke and CO alarms. If any of the alarms do not work, the survey team will offer to replace the alarms free of charge.

C. Burden Hours

The survey interview will take 20 to 60 minutes to conduct, depending on whether the survey is administered by telephone (about 20 minutes), or by an in-home interview (60 minutes). We estimate the number of survey respondents to be 1,185. We estimate the total annual burden hours for respondents to be 1,422 hours, based on the total time required to respond to the invitation, screener, and the actual survey. The monetized hourly cost is $35.64, as defined by the average total hourly cost to employers for employee compensation for employees across all occupations as of September 2017, reported by the Bureau of Labor Statistics. Accordingly, we estimate the total annual cost burden to all respondents to be $50,680. (1,422 hours × $35.64 = $50,680.). The total cost to the federal government for the contract to design and conduct the survey is $721,773.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–14140 Filed 6–29–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Defense Science Board, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: June 27, 2018 from 8:00 a.m. to 5:00 p.m.–June 28, 2018 from 8:00 a.m. to 3:00 p.m.

ADDRESSES: The Executive Conference Center, 4075 Wilson Boulevard, 3rd Floor, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Defense Science Board Designated Federal Officer (DFO) Mr. Edward C. Gliot, (703) 571–0079 (Voice), (703) 697–1860 (Facsimile), *edward.c.gliot.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. The meeting will focus on DoD dependence on the U.S. electric power grid, homeland air defense, maritime situational awareness, threats and promise of biotechnology, countering autonomous systems, technical approaches to counter-intelligence, resilient positioning, navigation and timing, various undersea issues, gray zone conflict, resilience of the defense industrial base, and logistics.

Agenda: The 2018 Summer Study meeting will begin on Wednesday, June 27, 2018 at 8:00 a.m. with opening remarks from Mr. Edward Gliot, DSB Executive Director, Dr. Craig Fields, DSB Chairman and Dr. Eric Evans, Vice Chairman. Following opening remarks, Defense Science Board members will hold classified small group discussions covering DoD dependence on the U.S. electric power grid, homeland air defense, maritime situational awareness, threats and promise of biotechnology, countering autonomous systems, technical approaches to counter-intelligence, resilient positioning, navigation and timing, various undersea issues, gray zone conflict, resilience of the defense industrial base, and logistics. After break, DSB members will hold a plenary session of classified discussion covering DoD dependence on the U.S. electric power grid, homeland air defense, maritime situational awareness, threats and promise of biotechnology, countering autonomous systems, technical approaches to counter-intelligence, resilient positioning, navigation and timing, various undersea issues, gray zone conflict, resilience of the defense

industrial base, and logistic. The meeting will adjourn at 5:00 p.m. On the second day of the meeting, Thursday, June 28, 2018, the day will begin at 8:00 a.m. with a classified plenary session covering DoD dependence on the U.S. electric power grid, homeland air defense, maritime situational awareness, threats and promise of biotechnology, countering autonomous systems, technical approaches to counter-intelligence, resilient positioning, navigation and timing, various undersea issues, gray zone conflict, resilience of the defense industrial base, and logistic. After break, the classified plenary discussion will continue. The meeting will adjourn at 3:00 p.m.

Meeting Accessibility: In accordance with section 10(d) of the FACA and title 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense for Research and Engineering, in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by title 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Research and Engineering.

Written Statements: In accordance with section 10(a)(3) of the FACA and title 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO provided above at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: June 27, 2018.

Shelly E. Finke,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–14194 Filed 6–29–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Notice of Solicitation of Applications for Stakeholder Representative Members of the Missouri River Recovery Implementation Committee; Correction

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice; extension of application deadline; correction.

SUMMARY: The Army Corps of Engineers published a document in the **Federal Register** of June 4, 2018, soliciting applications to fill vacant stakeholder representative member positions on the Missouri River Recovery Implementation Committee (MRRIC). The document contained an incomplete list of stakeholder interest categories. There are three additional stakeholder interest categories. The Corps is also extending the deadline for submitting applications to August 2, 2018.

DATES: The agency must receive completed applications and endorsement letters no later than August 2, 2018.

FOR FURTHER INFORMATION CONTACT: Lisa Rabbe, 816–389–3837.

Correction

In the **Federal Register** of June 4, 2018, in FR Doc. 2018–11891, on page 25655, correct the fourth paragraph in the third column as follows:

This Notice is for individuals interested in serving as a stakeholder member on the Committee. Members and alternates must be able to demonstrate that they meet the definition of ''stakeholder'' found in the Charter of the MRRIC. Applications are currently being accepted for representation in the stakeholder interest categories listed below:

a. Environmental/Conservation Org;
b. Hydropower;
c. Local Government;
d. Major Tributaries;
e. Navigation;
f. Recreation;
g. Thermal Power;
h. Water Supply;
i. Conservation Districts;
j. Irrigation; and
k. Fish & Wildlife.

Dated: June 25, 2018.

Mark Harberg,

Program Manager for the Missouri River Recovery Program (MRRP).

[FR Doc. 2018–14189 Filed 6–29–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Notice of Availability of the Draft Feasibility Report and Integrated Environmental Impact Statement for the Adams and Denver Counties, Colorado General Investigation Study, Adams and Denver County, Colorado

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers (Corps) has made available for public review and comment the Adams and Denver Counties, Colorado General Investigation Study Draft Feasibility Report and Integrated Environmental Impact Statement (Draft EIS). The Draft EIS analyzes and discloses potential effects associated with the proposed Federal action to restore aquatic, wetland, and riparian habitat along the South Platte River and implement flood risk management solutions along Weir Gulch and Harvard Gulch.

DATES: The public comment period on the Draft EIS begins on July 2, 2018 and will last 45 days. Submit written comments on the Draft EIS on or before August 16, 2018. Three public meetings to share information and for the public to provide oral or written comments will be held for specific study segments at the following locations:

- *Weir Gulch:* Tuesday, July 31, 2018, 5:30 p.m. to 7:30 p.m. at Barnum Recreation Center, 360 Hooker Street, Denver, CO 80219.
- *South Platte River:* Wednesday, August 1, 2018, 5:30 p.m. to 7:30 p.m. at REI, 1416 Platte Street, 3rd Floor, Denver, CO 80202.
- *Harvard Gulch:* Thursday, August 2, 2018, 5:30 p.m. to 7:30 p.m. at Porter Hospital, 2525 S Downing Street, Grand Mesa Conference Room (2nd Floor), Denver, CO 80210.

The parking garage is available and access is through the main hospital entrance. Each meeting will begin with an open house at 5:30 p.m. followed by a formal 30-minute presentation at 6:00 p.m., with the rest of the meeting consisting of an open house until 7:30 p.m.

ADDRESSES: Send written comments, requests to be added to the mailing list, or requests for sign language interpretation for the hearing impaired or other special assistance needs to U.S. Army Corps of Engineers Omaha District, ATTN: CENWO–PMA–A, 1616 Capitol Ave., Omaha, NE 68102; or email to *cenwo-planning@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Bohlken, U.S. Army Corps of Engineers, 1616 Capitol Ave., Omaha, NE 68102, or *Jeffrey.C.Bohlken@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Corps is issuing this notice pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.;* the Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of NEPA, 43 CFR parts 1500 through 1508; the Department of the Interior's NEPA regulations, 43 CFR part 46.

Background Information. The Adams and Denver Counties, Colorado General Investigation Study is located in eastern Colorado in Adams and Denver Counties. The study area includes three streams—the South Platte River, Weir Gulch, and Harvard Gulch. The Weir and Harvard Gulches are tributaries to the South Platte River. Stream-specific project areas were established for each stream and are as follows:

- South Platte River—6th Ave to 58th Ave.
- Harvard Gulch—Colorado Blvd. to the confluence
- Weir Gulch—Just west of Sheridan Blvd. to the confluence, including 1st Ave. and Dakota Ave. Tributaries

Original authority for the Adams County, Colorado study was expanded by a resolution adopted 24 September, 2008, by the Committee on Transportation and Infrastructure, U.S. House of Representatives, Docket 2813, Adams and Denver Counties, Colorado, directing the USACE to conduct a study on flood damage reduction, floodplain management, water supply, water quality improvement, recreation, environmental restoration, watershed management, and other allied purposes along the South Platte River and its tributaries in Adams and Denver Counties, Colorado. Additional study guidelines were provided by the USACE Northwestern Division, ensuring that the Omaha District developed measures that focus on environmental restoration (*e.g.,* migratory bird habitat, wetlands, etc.) rather than primarily targeting improvement of aesthetic features.

This notice announces the availability of the Draft EIS and begins a 45-day public comment period on the range of alternatives and effects analysis. Analysis in the Draft EIS will support a decision on the selection of an alternative. The Draft EIS can be accessed at: *http://www.nwo.usace.army.mil/Missions/Civil-Works/Planning/Project-Reports/.* The Corps is serving as the lead Federal agency for the NEPA analysis process and preparation of the Draft EIS. No Cooperating Agencies were established for this study.

Project Alternatives. The purpose of the Adams and Denver Counties, Colorado General Investigation Study is to restore aquatic, wetland, and riparian habitat along the South Platte River. Along Weir and Harvard Gulches, the purpose of the study is to implement flood risk management improvements. The Draft EIS analyzes 10 alternatives which includes a No Action Alternative for each stream.

South Platte River Alternative 1. The South Platte River No Action Alternative (NAA) would involve continued ongoing operation and maintenance of existing flood risk management features, operation and maintenance of constructed habitat restoration projects, and associated activities to comply with state and Federal law. Some actions expected to be taken under the no action alternative would include the redevelopment of the National Western Center (including some ecosystem restoration features along the east bank of the South Platte River and floodplain), relocation of sewage lines along the east bank, minor ongoing invasive species removal efforts, and ongoing water quality improvement efforts. Several ongoing master planning efforts and their proposed activities would also be expected to continue. Large-scale ecosystem restoration construction would not be expected to be implemented.

South Platte River Alternative 2. The South Platte River ecosystem restoration Plan 9 alternative would involve extensive aquatic, wetland, riparian, and some upland buffer habitat restoration and would incorporate some incidental flood risk management improvements. The footprint of this alternative spans approximately 150 acres of floodplain and approximately 95 acres in-channel. Restoration activities include dredging and removal of accreted sediment, removal and modification of multiple in-channel drop structures, regrading of floodplain banks, installation of rock jetties, construction of wetland benches, removal of invasive species vegetation, and revegetation of all disturbed land with native species. The project would result in the restoration of 85 acres of riparian habitat, 43 acres of wetland habitat, 95 acres of aquatic habitat, and the removal and replacement of 24 acres of additional invasive species vegetation with native riparian species. In addition, construction of the recommended plan would reconnect approximately 190 acres of existing riparian areas, ponds, parks, and other ''green'' areas in the urban landscape. These habitat areas would directly support breeding migratory birds and could serve as valuable corridors for native wildlife utilizing this area. In total, almost 450 acres of habitat would see direct and indirect improvement from this project. Infrastructure improvements conducted under this alternative would include realignment of a portion of sanitary sewer lines and the Burlington Canal; replacement of the Confluence Park diversion structure with flashboards; relocation of a pedestrian bridge; and relocation of all impacted recreational trails.

Weir Gulch Alternative 1. The Weir Gulch NAA would involve Urban Drainage & Flood Control District (UDFCD) and City and County of Denver (CCD) ongoing operation and maintenance of constructed flood risk management features along the Weir Gulch. Ongoing minor invasive species management and water quality improvements would be expected to continue, but construction of habitat restoration or additional flood risk management features would not be expected to occur.

Weir Gulch Alternative 2. The Weir Gulch flood risk management channel alternative would involve increasing conveyance through the project area by widening the channel in reaches 1 through 3 with a culvert expansion in reach 6. The channel widening in reaches 1 through 3 would involve maintaining the approximately 1-foot wide daily flow channel, excavating a low flow channel and re-grading the upper channel sides to a 3H:1V slope. The flood control channel would consist generally of a trapezoidal low-flow channel designed to convey approximately 70% of the 50% annual chance exceedance (ACE) flood event (2-year return interval flood), per UDFCD guidelines. The overall channel width varies by location and reach, but in general top of channel widths averages 100 feet. Native species vegetation plantings would also be incorporated into this alternative to restore some riparian vegetation along the channel banks as well as to restore

wetland benches within the daily flow channel.

Weir Gulch Alternative 3. The Weir Gulch nonstructural flood risk management alternative includes such nonstructural measures as elevation, buyouts, relocations, wet floodproofing, dry floodproofing, etc. Incremental nonstructural measures were added to reaches 4, 5, and 7. There were only five structures with an individual benefit-cost ratio (BCR) over 1.0 in reaches these reaches, therefore to include as many structures as possible, structures with an individual BCR above 0.5 were included. A total of 13 structures were identified as part of the nonstructural alternative.

Weir Gulch Alternative 4. The Weir Gulch flood channel and nonstructural flood risk management combination alternative combines the measures and properties considered in alternatives 2 and 3 into a single alternative by looking at how isolated nonstructural measures could be used to further reduce the existing flood risk and thus generate higher flood risk reduction benefits.

Harvard Alternative 1. The Harvard Gulch NAA would involve the UDFCD and CCD ongoing operation and maintenance of constructed flood risk management features along the Harvard Gulch. Harvard Gulch Park would continue to be maintained for its current mixed use recreational purposes. Ongoing minor invasive species management and water quality improvements would be expected to continue, but construction of habitat restoration or additional flood risk management features would not be expected to occur.

Harvard Gulch Alternative 2. The Harvard Gulch flood channel alternative would involve increasing conveyance through the project area by widening the channel in reaches 2 through 5 with a culvert expansion in reach 1. The channel widening in reaches 2 through 5 would involve maintaining the approximately 1-foot wide daily flow channel, excavating a low flow channel and re-grading the upper channel sides to a 3H:1V slope. The flood control channel would consist generally of a trapezoidal low-flow channel designed to convey approximately 70% of the 50% ACE (2-year return interval flood), per UDFCD guidelines. The overall channel width varies by location and reach, but in general top of channel widths average 80 feet. Native species vegetation plantings would also be incorporated into this alternative to restore some riparian vegetation along the channel banks and restore wetland benches within the daily flow channel.

Harvard Gulch Alternative 3. The Harvard Gulch nonstructural flood risk management alternative includes structures in all reaches with an individual BCR above 1.0 and 10 buyouts located in the floodway in reach 4. The 10 residential buyouts in the floodway were selected based on flood damages beginning at the 10% ACE (10-year return interval flood) and inundation depths around 3 feet during the 1% ACE (100-year return interval flood). Of the structures meeting this criteria, the 10 closest to the channel were selected. This selection criteria also aligns with the non-Federal sponsor's Harvard Gulch Major Drainageway Plan. The nonstructural measures for the 96 structures in this alternative include elevation, basement fill, dry floodproofing, and buyouts.

Harvard Gulch Alternative 4. The Harvard Gulch flood channel and nonstructural flood risk management combination alternative combines the measures and properties considered in alternatives 2 and 3 into a single alternative by looking at how isolated nonstructural measures could be used to further reduce the existing flood risk and thus generate higher flood risk reduction benefits.

The Draft EIS evaluates the potential effects on the human environmental associated with each of the alternatives. Issues addressed include: Land use and vegetation, social and economic conditions, recreation, water resources, climate change, biological resources, cultural resources, geomorphology, preexisting contamination, utilities and infrastructure, air quality, noise, and environmental justice.

Schedule. A 45-day public comment period will begin July 2, 2018. Comments on the Draft EIS must be received by August 16, 2018. The Corps will consider and respond to all comments received on the Draft EIS when preparing the Final EIS. The Corps expects to issue the Final EIS in the spring of 2019, at which time a Notice of Availability will be published in the **Federal Register**.

The public meeting date or location may change based on inclement weather or exceptional circumstances. If the meeting date or location is changed, the Corps will issue a press release and post it on the web at *http://www.nwo.usace.army.mil/Media/News-Releases/* to announce the updated meeting details.

Special Assistance for Public Meeting. The meeting facility is physically accessible to people with disabilities. People needing special assistance to attend and/or participate in the meeting should contact: U.S. Army Corps of Engineers Omaha District, ATTN: CENWO–PMA–A, 1616 Capitol Ave., Omaha, NE 68102; or email to *cenwo-planning@usace.army.mil.* To allow sufficient time to process special requests, please contact no later than one week before the public meeting.

Public Disclosure Statement. If you wish to comment, you may mail or email your comments as indicated under the **ADDRESSES** section of this notice. Before including your address, phone number, email address, or any other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made available to the public at any time. While you can request in your comment for us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 25, 2018.

Eric Laux,

Chief, Environmental and Cultural Resources Section.

[FR Doc. 2018–14187 Filed 6–29–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Office of the Department of the Navy

United States Naval Academy Board of Visitors; Notice of Federal Advisory Committee Meeting

AGENCY: United States Naval Academy Board of Visitors, Department of the Navy, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the United States Naval Academy Board of Visitors will take place.

DATES: The open session of the meeting will be held on September 4, 2018, from 9:00 a.m. to 11:15 a.m. The executive session held from 11:15 a.m. to 12:00 p.m. will be the closed portion of the meeting.

ADDRESSES: The meeting will be held at the Library of Congress in Washington, DC.

FOR FURTHER INFORMATION CONTACT: LCDR Lawrence Heyworth IV, USN, 410–293–1500 (Voice), 410–293–2303 (Facsimile), *heyworth@usna.edu* (Email). Mailing address is U.S. Naval Academy 121 Blake Road, Annapolis, MD 21402. Website: *https://www.usna.edu/PAO/Superintendent/bov.php.* The most up-to-date changes to

the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11:15 a.m. to 12:00 p.m. on September 4, 2018, will consist of discussions of new and pending administrative/minor disciplinary infractions and non-judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor/conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Department of the Navy/Assistant for Administration has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:15 a.m. to 12:00 p.m. will be concerned with matters protected under sections 552b(c)(5), (6), and (7) of title 5, United States Code.

Purpose of the Meeting: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

Agenda: 0830–0900 Assemble/Coffee (OPEN to public), 0900 Call to Order (OPEN to public), 0900–1100 Business Session (OPEN to public), 1100–1115 Break (OPEN to public), 1115–1200 Executive Session (CLOSED to public).

Meeting Accessibility: The meeting will be handicap accessible.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140(c) and section 10(a)(3) of the FACA, the public or interested organizations may submit written statements to the membership of the DPB at any time regarding its mission or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's Designated Federal Officer (DFO); the DFO's contact information is listed in this notice or it can be obtained from the GSA's FACA Database *http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all members.

Dated: June 25, 2018.

E.K. Baldini

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–14160 Filed 6–29–18; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP14–497–001	6–15–2018	Climate Writers.
2. CP17–101–000	6–19–2018	Scott F. Linde.
3. CP17–101–000	6–19–2018	Jackie Weisberg.
4. CP15–88–000	6–19–2018	Richmond Chamber of Commerce, Board of Directors—Executive Committee.
5. CP15–554–000, CP15–554–001, CP15–555–000, CP15–556–000.	6–20–2018	William Limpert.

Docket No.	File date	Presenter or requester
Exempt:		
1. P–2299–000, P–14581–000	6–18–2018	FERC Staff.[1]
2. CP16–10–000	6–18–2018	U.S. Congressman Mark Walker.
3. CP15–88–000	6–18–2018	Rowan County Judge/Executive, Dr. Walter Blevins Jr.
4. P–2035–000	6–20–2018	U.S. Senate.[2]
5. CP16–121–000	6–21–2018	House Representative Dave Cicilline.

[1] Memo dated June 18, 2018 reporting call with John Devine with HDR Engineering.
[2] Senators Cory Gardner and Michael F. Bennet. House Representatives Mike Coffman and Ed Perlmuuter.

Dated: June 26, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14129 Filed 6–29–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR18–60–000.
Applicants: The Narragansett Electric Company.
Description: Tariff filing per 284.123(b),(e): Revised Statement of Operating Conditions to be effective 8/1/2018.
Filed Date: 6/18/18.
Accession Number: 201806185107.
Comments/Protests Due: 5 p.m. ET 7/9/18.

Docket Numbers: PR18–61–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH Rates effective 5–31–2018.
Filed Date: 6/21/18.
Accession Number: 201806215079.
Comments/Protests Due: 5 p.m. ET 7/12/18.

Docket Numbers: PR18–59–001.
Applicants: Kinder Morgan Tejas Pipeline LLC.
Description: Tariff filing per 284.123(b)(2): Errata to Petition of Approval of Market-Based Rates to be effective 10/1/2018.
Filed Date: 6/19/18.
Accession Number: 201806195074.
Comments/Protests Due: 5 p.m. ET 7/10/18.

Docket Numbers: RP18–789–001.
Applicants: Cheniere Corpus Christi Pipeline, LP.
Description: Compliance filing Baseline Compliance Filing RP18–789–000 to be effective 6/1/2018.
Filed Date: 6/21/18.
Accession Number: 20180621–5021.
Comments Due: 5 p.m. ET 7/3/18.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 25, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14123 Filed 6–29–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–1813–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Power Up Energy, LLC

This is a supplemental notice in the above-referenced proceeding of Power Up Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the 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.

Dated: June 25, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14128 Filed 6–29–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–181–000]

Notice of Filing: American Municipal Power, Inc.

Take notice that on June 22, 2018, American Municipal Power, Inc. submitted a filing of proposed revenue requirement for reactive supply and voltage control from generation or other sources service under Schedule 2 of the PJM Interconnection, L.L.C. Tariff (Belleville Hydroelectric Facility).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the 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 25, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14127 Filed 6–29–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–179–000]

Notice of Complaint: MD Solar 3, LLC v. PJM Interconnection, L.L.C.

Take notice that on June 22, 2018, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, MD Solar 3, LLC (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) alleging that, Respondent violated its Open Access Transmission Tariff by terminating an interconnection service request submitted on behalf of the Complainant, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for the Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies 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 12, 2018.

Dated: June 25, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14126 Filed 6–29–18; 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: EC18–111–000.

Applicants: Grand River Wind LLC, Trishe Wind Ohio, LLC.

Description: Application for Approval Pursuant under Section 203 of the Federal Power Act of Grand River Wind LLC, et al.

Filed Date: 6/25/18.

Accession Number: 20180625–5135.

Comments Due: 5 p.m. ET 7/16/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2417–003; ER13–122–003.

Applicants: ExxonMobil Baton Rouge Complex, ExxonMobil Beaumont Complex.

Description: Triennial Market-Power Analysis for the Central Region of ExxonMobil Baton Rouge Complex, et al.

Filed Date: 6/25/18.

Accession Number: 20180625–5084.

Comments Due: 5 p.m. ET 8/24/18.

Docket Numbers: ER10–2437–011.

Applicants: Arizona Public Service Company.

Description: Notice of Non-Material Change in Status of Arizona Public Service Company.

Filed Date: 6/25/18.

Accession Number: 20180625–5092.

Comments Due: 5 p.m. ET 7/16/18.

Docket Numbers: ER10–3069–008; ER10–3070–008.

Applicants: Alcoa Power Marketing LLC, Alcoa Power Generating, Inc.

Description: Updated Market Power Analysis for Central Region of Alcoa Power Generating, Inc. and Alcoa Power Marketing LLC.

Filed Date: 6/22/18.

Accession Number: 20180622–5153.

Comments Due: 5 p.m. ET 8/21/18.

Docket Numbers: ER11–4633–004.

Applicants: Madison Gas and Electric Company.

Description: Updated Market Power Analysis of Madison Gas & Electric Company (Transmittal Letter).
Filed Date: 6/22/18.
Accession Number: 20180622–5172, 20180622–5181, 20180622–5182, 20180622–5180, 20180622–5183, 20180622–5184, 20180622–5185, 20180622–5186, 20180622–5193.
Comments Due: 5 p.m. ET 8/21/18.
Docket Numbers: ER18–1192–000.
Applicants: The Connecticut Light and Power Company.
Description: Report Filing: Fusion Solar Center, LLC Refund Report to be effective N/A.
Filed Date: 6/25/18.
Accession Number: 20180625–5081.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1248–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: SCE's Response to Deficiency re SCE's Revised WDAT—Energy Storage to be effective 5/30/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5075.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1825–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 4315; Queue No. Z1–069/AB1–160 to be effective 10/26/2017.
Filed Date: 6/22/18.
Accession Number: 20180622–5151.
Comments Due: 5 p.m. ET 7/13/18.
Docket Numbers: ER18–1826–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1883R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5028.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1827–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1884R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5029.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1828–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1885R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5032.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1829–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1886R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5034.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1830–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1887R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5035.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1831–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1888R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5041.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1832–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1889R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5044.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1833–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1890R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5045.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1834–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1891R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5053.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1835–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1892R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5064.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1836–000.
Applicants: Auburndale Peaker Energy Center, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/26/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5076.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1837–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Corrections to the APS LGIP and LGIA to be effective 8/25/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5077.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1838–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3459 Sunflower and SPS Interconnection Agreement to be effective 6/26/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5083.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1839–000.
Applicants: ExxonMobil Baton Rouge Complex.
Description: Compliance filing: Market Based Rates Compliance to be effective 6/26/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5088.
Comments Due: 5 p.m. ET 7/16/18.
Docket Numbers: ER18–1840–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: Revised Rate Schedule FERC No. 188 (MT)—Colstrip 1 & 2 Transmission Agreement to be effective 9/1/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5105.
Comments Due: 5 p.m. ET 7/16/18.

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 25, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14122 Filed 6–29–18; 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: EC18–112–000.
Applicants: Dogwood Energy LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, Expedited Action, and Shortened Comment Period of Dogwood Energy LLC.
Filed Date: 6/25/18.
Accession Number: 20180625–5179.
Comments Due: 5 p.m. ET 7/16/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1790–016; ER10–2596–007; ER11–3325–005.
Applicants: BP Energy Company, Fowler Ridge II Wind Farm LLC, Whiting Clean Energy, Inc.
Description: Updated Market Analysis for Central Region of BP Energy Company, et al.
Filed Date: 6/26/18.
Accession Number: 20180626–5070.
Comments Due: 5 p.m. ET 8/27/18.

Docket Numbers: ER10–2507–017.
Applicants: Westar Energy, Inc.
Description: Notice of Non-Material Change in Status of Westar Energy, Inc.
Filed Date: 6/26/18.
Accession Number: 20180626–5032.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER14–153–008; ER14–154–008; ER10–3169–013; ER10–3143–020; ER16–517–003.
Applicants: Gibson City Energy Center, LLC, Grand Tower Energy Center, LLC, Michigan Power Limited Partnership, Sabine Cogen, LP, Shelby County Energy Center, LLC.
Description: Triennial Market-Based Rate Update Filing for the Central Region of the Rockland Sellers.
Filed Date: 6/25/18.
Accession Number: 20180625–5176.
Comments Due: 5 p.m. ET 8/24/18.

Docket Numbers: ER18–1841–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–06–25_SA 2465 Rock Aetna Power-Northern States Power 1st Revised GIA (G621) to be effective 6/11/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5174.
Comments Due: 5 p.m. ET 7/16/18.

Docket Numbers: ER18–1842–000.
Applicants: Arizona Public Service Company.
Description: Tariff Cancellation: Cancellation of Service Agreement Nos. 353 and 354 to be effective 8/25/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5159.
Comments Due: 5 p.m. ET 7/16/18.

Docket Numbers: ER18–1843–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–06–25_Tariff revisions to address Up-to-TUC to be effective 8/25/2018.
Filed Date: 6/25/18.
Accession Number: 20180625–5160.
Comments Due: 5 p.m. ET 7/16/18.

Docket Numbers: ER18–1844–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1893R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5002.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1845–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1894R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5003.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1846–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1895R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5004.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1847–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1897R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5021.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1848–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1978R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5024.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1849–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2045R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5025.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1850–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–06–26_Termination of SA 2431 Glacial Ridge Wind LLC–GRE GIA (G549) to be effective 8/19/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5026.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1851–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2066R7 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5027.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1852–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2491R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5029.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1853–000.
Applicants: New York State Electric & Gas Corporation.
Description: § 205(d) Rate Filing: NYSEG–NYPA Attachment C—O&M Annual Update to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5038.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1854–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment AE to Enhance Out-of-Merit Energy to be effective 5/1/2019.
Filed Date: 6/26/18.
Accession Number: 20180626–5059.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1855–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2900R9 KMEA NITSA NOA to be effective 6/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5099.
Comments Due: 5 p.m. ET 7/17/18.

Docket Numbers: ER18–1856–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2415R10 Kansas Municipal Energy Agency NITSA and NOA to be effective 6/1/2018.
Filed Date: 6/26/18.

Accession Number: 20180626–5100.
Comments Due: 5 p.m. ET 7/17/18.
Docket Numbers: ER18–1857–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2562R6 Kansas Municipal Energy Agency NITSA and NOA to be effective 9/1/2018.
Filed Date: 6/26/18.
Accession Number: 20180626–5118.
Comments Due: 5 p.m. ET 7/17/18.
Docket Numbers: ER18–1858–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–06–26_SA 3036 Turtle Creek-ITC Midwest 1st Rev GIA (J449) to be effective 6/12/2018.
Filed Date: 6/26/18
Accession Number: 20180626–5138.
Comments Due: 5 p.m. ET 7/17/18.

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 26, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–14124 Filed 6–29–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9980–14—Region 2]

Proposed CERCLA Cost Recovery Settlement for the Gowanus Canal Superfund Site, Brooklyn, Kings County, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with the Estate of Daniel Tinneny, Two Dans Enterprises Ltd., Tinneny President Street LLC, Tinneny 323–325 LLC, 383 Carroll Street LLC, and 426 President Street LLC (collectively ''Settling Parties'') related to the Gowanus Canal Superfund Site (''Site''), located in Brooklyn, Kings County, New York. This notice informs the public of its opportunity to comment on the settlement.

DATES: Comments must be submitted on or before August 1, 2018.

ADDRESSES: Written comments should be addressed to the EPA employee identified below. The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Gowanus Canal Superfund Site, located in Brooklyn, Kings County, New York, Index No. II–CERCLA–02–2018–2005. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Brian Carr, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *carr.brian@epa.gov*, Telephone: 212–637–3170.

SUPPLEMENTARY INFORMATION: EPA alleges that Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), and are jointly and severally liable for response costs incurred or to be incurred at or in connection with the Site. Within 7 days of the Effective Date of this Settlement Agreement, Settling Parties shall pay to the EPA Hazardous Substance Superfund the amount of $164,400.00. The total amount paid by Settling Parties pursuant to this Settlement Agreement shall be deposited in the Gowanus Canal Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), regarding the Site. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: June 11, 2018.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2018–14196 Filed 6–29–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1063, OMB 3060–0228]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall

be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–1063.

Title: Global Mobile Personal Communications by Satellite (GMPCS) Authorization, Marketing and Importation Rules.

Form No.: Not Applicable.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 17 respondents; 17 responses.

Estimated Time per Response: 1–24 hours per response.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The Commission has authority for this information collection pursuant to Sections 4(i), 301, 302(a), 303(e), 303(f), 303(g), 303(n) and 303(r) of the Communications Act of 1934, as amended; 47 U.S.C. 4(i), 301, 302(a), 303(e), 303(f), 303(g), 303(n) and 303(r).

Total Annual Burden: 595 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: On July 14, 2017, the Federal Communications Commission (''Commission'') released a First Report and Order titled, ''In the Matter of Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules Regarding Authorization of Radiofrequency Equipment,'' ET Docket No. 15–170 (FCC 17–93). In the First Report and Order, the Commission discontinued use of the ''Statement Regarding the Importation of Radio Frequency Devices Capable of Harmful Interference,'' (FCC Form 740) and eliminated 47 CFR 2.1205 and 2.1203(b), thus removing the Form 740 filing requirements. The agency concluded that there was no evidence indicating that the Form 740 filing process provided a substantial deterrent to illegal importation of RF devices, and that the existing filing requirement creates large burdens in light of the growth in the number and type of RF devices being imported, and that there is now a wider availability of product and manufacturer information, including that available to the FCC from the Custom and Border Protection's (CBP) database. The Form 740 was approved under OMB Control No. 3060–0059 and was under the purview of the Commission's Office of Engineering & Technology (OET).

The purposes of the revision of OMB Control No. 3060–1063 are to reflect a slight decrease in the number of satellite operators and/or GMPCS equipment manufacturers and changes resulting from the elimination of Form 740. Specifically, the number of respondents changed from 19 to 17 due to a decrease in the number of satellite operators and/or GMPCS equipment manufacturers. As a result of the elimination of the Form 740, the total annual burden hours changed from 684 to 595 and the total annual costs decreased from $13,110 to zero.

The purpose of this information collection is to maintain OMB approval of a certification requirement for portable GMPCS transceivers to prevent interference, reduce radio-frequency (''RF'') radiation exposure risk, and make regulatory treatment of portable GMPCS transceivers consistent with treatment of similar terrestrial wireless devices, such as cellular phones.

The Commission is requiring that applicants obtain authorization for the equipment by submitting an application and exhibits, including test data. If the Commission did not obtain such information, it would not be able to ascertain whether the equipment meets the FCC's technical standards for operation in the United States. Furthermore, the data is required to ensure that the equipment will not cause catastrophic interference to other telecommunications services that may impact the health and safety of American citizens.

OMB Control Number: 3060–0228.

Title: Section 80.59, Compulsory Ship Inspections and Ship Inspection Certificates, FCC Forms 806, 824, 827 and 829.

Form Numbers: FCC Forms 806, 824, 827 and 829.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 2,438 respondents; 2,438 responses.

Estimated Time per Response: 0.084 hours (5 minutes)—4 hours per response.

Frequency of Response: On occasion, annual and every five year reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4, 303, 309,

332 and 362 of the Communications Act of 1934, as amended.

Total Annual Burden: 10,333 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The requirements contained in 47 CFR 80.59 of the Commission's rules are necessary to implement the provisions of section 362(b) of the Communications Act of 934, as amended, which require the Commission to inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act.

Further, section 80.59(d) states that the Commission may, upon a finding that the public interest would be served, grant a waiver of the annual inspection required by section 362(b) of the Communications Act of 1934, for a period of not more than 90 days for the sole purpose of enabling the United States vessel to complete its voyage and proceed to a port in the United States where an inspection can be held. An information application must be submitted by the ship's owner, operator or authorized agent. The application must be submitted to the Commission's District Director or Resident Agent in charge of the FCC office nearest the port of arrival at least three days before the ship's arrival. The application must provide specific information that is in rule section 80.59.

Additionally, the Communications Act requires the inspection of small passenger ships at least once every five years.

The Safety Convention (to which the United States is a signatory) also requires an annual inspection.

The Commission allows FCC-licensed technicians to conduct these inspections. FCC-licensed technicians certify that the ship has passed an inspection and issue a safety certificate. These safety certificates, FCC Forms 806, 824, 827 and 829 indicate that the vessel complies with the Communications Act of 1934, as amended and the Safety Convention. These technicians are required to provide a summary of the results of the inspection in the ship's log that the inspection was satisfactory.

Inspection certificates issued in accordance with the Safety Convention must be posted in a prominent and accessible place on the ship (third party disclosure requirement).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–14152 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0031]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

Control Number: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form Number: FCC Forms 314 and 315.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,840 respondents and 12,880 responses.

Estimated Time per Response: 0.084 to 6 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,670 hours.

Total Annual Cost: $52,519,656.

Privacy Impact Assessment(s): No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: FCC Form 314 and the applicable exhibits/explanations are required to be filed when applying for consent for assignment of an AM, FM, LPFM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved assignment of a broadcast station construction permit or license has been consummated. FCC Form 315 and applicable exhibits/explanations are required to be filed when applying for transfer of control of an entity holding an AM, FM, LPFM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

Due to the similarities in the information collected by these two forms, OMB has assigned both forms OMB Control Number 3060–0031.

The information collection requirements contained under 47 CFR 73.3580 require local public notice in a newspaper of general circulation published in the community in which a station is located of the filing of all applications for transfer of control or assignment of the license/permit.

This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice and the application must be placed in the station's public inspection file along with the application, pursuant to Section 73.3527. Additionally, an applicant for transfer of control of a license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–14154 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–XXXX.

Title: New Procedure for Non-Federal Public Safety Entities to License Federal Government Interoperability Channels.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Not-for-profit institutions; State, Local, or Tribal government.

Number of Respondents and Responses: 45,947 respondents; 45,947 responses.

Estimated Time per Response: 0.25 hours.

Frequency of Response: One-time reporting requirement.

Obligation To Respond: New Section 90.25 adopted in Order DA 18–282, requires any non-federal public safety entity seeking to license mobile and portable units on the Federal Interoperability Channels to obtain written concurrence from its Statewide Interoperability Coordinator (SWIC) or a state appointed official and include such written concurrence with its application for license. A non-federal public safety entity may communicate on designated Federal Interoperability Channels for joint federal/non-federal operations, provided it first obtains a license from the Commission authorizing use of the channels. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, and 332 of the Communications Act of 1934.

Total Annual Burden: 11,487 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Applicants who include written concurrence from their SWIC or state appointed official with their application to license mobile and portable units on the Federal Interoperability Channels need not include any confidential information with their application. Nonetheless, there is a need for confidentiality with respect to all applications filed with the Commission through its Universal Licensing System (ULS). Although ULS stores all information pertaining to the individual license via an FCC Registration Number (FRN), confidential information is accessible only by persons or entities that hold the password for each account, and the Commission's licensing staff. Information on private land mobile radio licensees is maintained in the Commission's system of records, FCC/WTB–1, ''Wireless Services Licensing Records.'' The licensee records will be publicly available and routinely used in accordance with subsection (b) of the Privacy Act. TIN Numbers and material which is afforded confidential treatment pursuant to a request made under 47 CFR 0.459 will not be available for Public inspection. Any personally identifiable information (PII) that individual applicants provide is covered by a system of records, FCC/WTB–1, ''Wireless Services Licensing Records,'' and these and all other records may be disclosed pursuant to the Routine Uses as stated in this system of records notice.

Needs and Uses: This collection will be submitted as a new collection after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance. The purpose of requiring a non-federal public safety entity to obtain written consent from its SWIC or state appointed official before communicating with federal government agencies on the Federal Interoperability Channels is to ensure that the non-federal public safety entity operates in accordance with the rules and procedures governing use of the federal interoperability channels and does not cause inadvertent interference during emergencies. Commission staff will use the written concurrence from the SWIC or state appointed official to determine if an applicant's proposed operation on the Federal Interoperability Channels conforms to the terms of an agreement signed by the SWIC or state appointed official with a federal user with a valid assignment from the National Telecommunications and Information Administration (NTIA) which has jurisdiction over the channels.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–14155 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0519]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A

copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0519.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, CG Docket No. 02–278.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions.

Number of Respondents and Responses: 22,503 respondents; 140,186,983 responses.

Estimated Time per Response: .004 hours (15 seconds) to 1 hour.

Frequency of Response: Annual, monthly, on occasion and one-time reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements are found in the Telephone Consumer Protection Act of 1991 (TCPA), Public Law 102–243, December 20, 1991, 105 Stat. 2394, which added Section 227 of the Communications Act of 1934, [47 U.S.C. 227] Restrictions on the Use of Telephone Equipment.

Total Annual Burden: 606,838 hours. Total Annual Cost: $1,650,600.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints, Inquiries, and Requests for Dispute Assistance'', in the **Federal Register** on August 15, 2014 (79 FR 48152) which became effective on September 24, 2014. A system of records for the do-not-call registry was created by the Federal Trade Commission (FTC) under the Privacy Act. The FTC originally published a notice in the **Federal Register** describing the system. See 68 FR 37494, June 24, 2003. The *18056 FTC updated its system of records for the do-not-call registry in 2009. See 74 FR 17863, April 17, 2009.

Privacy Impact Assessment: Yes.

Needs and Uses: The reporting requirements included under this OMB Control Number 3060–0519 enable the Commission to gather information regarding violations of section 227 of the Communications Act, the Do-Not-Call Implementation Act (Do-Not-Call Act), and the Commission's implementing rules. If the information collection was not conducted, the Commission would be unable to track and enforce violations of section 227 of the Communications Act, the Do-Not-Call Act, or the Commission's implementing rules. The Commission's implementing rules provide consumers with several options for avoiding most unwanted telephone solicitations.

The national do-not-call registry supplements the company-specific do-not-call rules for those consumers who wish to continue requesting that particular companies not call them. Any company that is asked by a consumer, including an existing customer, not to call again must honor that request for five (5) years.

A provision of the Commission's rules, however, allows consumers to give specific companies permission to call them through an express written agreement. Nonprofit organizations, companies with whom consumers have an established business relationship, and calls to persons with whom the telemarketer has a personal relationship are exempt from the ''do-not-call'' registry requirements.

On September 21, 2004, the Commission released the Safe Harbor Order, published at 69 FR 60311, October 8, 2004, establishing a limited safe harbor in which persons will not be liable for placing autodialed and prerecorded message calls to numbers ported from a wireline service within the previous 15 days. The Commission also amended its existing National Do-Not-Call Registry safe harbor to require telemarketers to scrub their lists against the Registry every 31 days.

On December 4, 2007, the Commission released the DNC NPRM, published at 72 FR 71099, December 14, 2007, seeking comment on its tentative conclusion that registrations with the Registry should be honored indefinitely, unless a number is disconnected or reassigned or the consumer cancels his registration.

On June 17, 2008, in accordance with the Do-Not-Call Improvement Act of 2007, the Commission revised its rules to minimize the inconvenience to consumers of having to re-register their preferences not to receive telemarketing calls and to further the underlying goal of the National Do-Not-Call Registry to protect consumer privacy rights. The Commission released a Report and Order in CG Docket No. 02–278, FCC 08–147, published at 73 FR 40183, July 14, 2008, amending the Commission's rules under the Telephone Consumer Protection Act (TCPA) to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry so that registrations will not automatically expire based on the current five-year registration period. Specifically, the Commission modified § 64.1200(c)(2) of its rules to require sellers and/or telemarketers to honor numbers registered on the Registry indefinitely or until the number is removed by the database administrator or the registration is cancelled by the consumer.

On February 15, 2012, the Commission released a Report and Order in CG Docket No. 02–278, FCC 12–21, originally published at 77 FR 34233, June 11, 2012, and later corrected at 77 FR 66935, November 8, 2012, revising its rules to: (1) Require prior express written consent for all autodialed or prerecorded telemarketing calls to wireless numbers and for all prerecorded telemarketing calls to residential lines; (2) eliminate the established business relationship exception to the consent requirement for prerecorded telemarketing calls to residential lines; (3) require telemarketers to include an automated, interactive opt-out mechanism in all prerecorded telemarketing calls, to allow consumers more easily to opt out of future robocalls during a robocall itself; and (4) require telemarketers to comply with the 3% limit on abandoned calls during each calling campaign, in order to discourage intrusive calling campaigns.

Finally, the Commission also exempted from the Telephone Consumer Protection Act requirements

prerecorded calls to residential lines made by health care-related entities governed by the Health Insurance Portability and Accountability Act of 1996.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–14153 Filed 6–29–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 16, 2018.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *James Bradley Doran, Columbia, Missouri;* to acquire voting shares of Green City Bancshares, Inc., Green City, Missouri, and thereby indirectly acquire Farmers Bank of Green City, Green City, Missouri.

In addition, James Bradley Doran has applied to become a member of the Doran/Grotenhuis Family Group, which owns voting shares of Green City Bancshares.

Board of Governors of the Federal Reserve System, June 26, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–14101 Filed 6–29–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 17, 2018.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Cape Cod Five Mutual Company, Harwich Port, Massachusetts;* to indirectly acquire voting shares of Summit Technology Consulting Group, LLC, Lancaster, Pennsylvania, and thereby engage in management consulting and data processing activities pursuant to section 225.28(b)(9) and 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, June 27, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–14184 Filed 6–29–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 23, 2018.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Bryant Bancshares, Inc., Bryant, South Dakota;* to acquire 100 percent of the voting shares of Richland State Bank, Bruce, South Dakota.

Board of Governors of the Federal Reserve System, June 26, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–14100 Filed 6–29–18; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–MG–2018–02; Docket No. 2018–0002; Sequence 14]

Office of Federal High-Performance Buildings; Green Building Advisory Committee; Request for Membership Nominations

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of request for membership nominations.

SUMMARY: The Green Building Advisory Committee provides advice to GSA as a mandatory federal advisory committee, as specified in the Energy Independence and Security Act of 2007 (EISA) and in accordance with the provisions of the Federal Advisory Committee Act (FACA). As the 2 to 4 year commitments of several members of the Committee are expiring, this notice invites additional

qualified candidates to apply to be considered for appointment to the Committee.

DATES: *Applicable:* July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Sandler, Office of Federal High-Performance Buildings, GSA, 202–219–1121.

SUPPLEMENTARY INFORMATION:

Background

The Administrator of the GSA established the Green Building Advisory Committee (hereafter, ''the Committee'') on June 20, 2011 (76 FR 118) pursuant to Section 494 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17123, or EISA), in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2). Under this authority, the Committee advises GSA on how the Office of Federal High-Performance Buildings can most effectively accomplish its mission. Extensive information about the Committee, including current members, is available on GSA's website at *http://www.gsa.gov/gbac.*

Membership requirements: The EISA statute authorizes the Committee and identifies the categories of members to be included. EISA names 10 federal agencies and offices to be represented on the Committee, and GSA works directly with these agencies to identify their qualified representatives. This notice is focused exclusively on non-federal members. EISA provides that, in addition to its required federal members, the Committee shall include ''other relevant agencies and entities, as determined by the Federal Director.'' These are to include at least one representative of each of the following categories:

''(i) State and local governmental green building programs;

(ii) Independent green building associations or councils;

(iii) Building experts, including architects, material suppliers, and construction contractors;

(iv) Security advisors focusing on national security needs, natural disasters, and other dire emergency situations;

(v) Public transportation industry experts; and

(vi) Environmental health experts, including those with experience in children's health.''

EISA further specifies: ''the total number of non-federal members on the Committee at any time shall not exceed 15.''

Member responsibilities: Approved Committee members will be appointed to terms of either 2 or 4 years with the possibility of membership renewals as appropriate. Membership is limited to the specific individuals appointed and is non-transferrable. Members are expected to attend all meetings in person, review all Committee materials, and actively provide their advice and input on topics covered by the Committee. Committee members will not receive compensation or travel reimbursements from the Government except where need has been demonstrated and funds are available.

Request for membership nominations: This notice provides an opportunity for individuals to present their qualifications and apply for an open seat on the Committee. GSA will ask Committee members whose terms are expiring to re-apply if they are interested in continuing to serve on the Committee. GSA will review all applications and determine which candidates are likely to add the most value to the Committee based on the criteria outlined in this notice.

At a minimum, prospective members must have:

—At least 5 years of high-performance building experience, which may include a combination of project-based, research and policy experience.

—Academic degrees, certifications and/or training demonstrating high-performance building and related sustainability and real estate expertise.

—Knowledge of federal sustainability and energy laws and programs.

—Proven ability to work effectively in a collaborative, multi-disciplinary environment and add value to the work of a committee.

—Qualifications appropriate to specific statutory requirements (listed above).

No person who is a federally-registered lobbyist may serve on the Committee, in accordance with the Presidential Memorandum ''Lobbyists on Agency Boards and Commissions'' (June 18, 2010).

Nomination process for Advisory Committee appointment: There is no prescribed format for the nomination. Individuals may nominate themselves or others. A nomination package shall include the following information for each nominee: (1) A letter of nomination stating the name and organizational affiliation(s) of the nominee, membership capacity he/she will serve (per statutory categories above), nominee's field(s) of expertise, and description of interest and qualifications; (2) A professional resume or CV; and (3) Complete contact information including name, return address, email address, and daytime telephone number of the nominee and nominator. GSA will consider nominations of all qualified individuals to ensure that the Committee includes the areas of high-performance building subject matter expertise needed. GSA reserves the right to choose Committee members based on qualifications, experience, Committee balance, statutory requirements and all other factors deemed critical to the success of the Committee. Candidates may be asked to provide detailed financial information to permit evaluation of potential conflicts of interest that could impede their work on the Committee, in accordance with the requirements of FACA. All nominations must be submitted in sufficient time to be received by 5 p.m., Eastern Daylight Time (EDT), on Thursday, July 26, 2018, and be addressed to *ken.sandler@gsa.gov.*

Dated: June 27, 2018.

Kevin Kampschroer,

Federal Director, Office of Federal High-Performance Buildings, Office of Government-wide Policy.

[FR Doc. 2018–14200 Filed 6–29–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–18CV]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Rapid Response Suicide Investigation Data Collection to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 9, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Rapid Response Suicide Investigation Data Collection—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

CDC is frequently called upon to respond to urgent requests from one or more external partners (*e.g.,* local, state, territory, and tribal health authorities; other federal agencies; local and state leaders; schools; or other partner organizations) to conduct investigations of suicide. Supporting rapid investigations to inform the implementation of effective suicide prevention strategies is one of the most important ways CDC can serve to protect and promote the health of the public. Prior to this request, CDC had collected data for a suicide investigation via the OMB-approved Emergency Epidemic Investigations (EEI) ICR (OMB No. 0920–1011; expiration 3/31/2020), which supported data collections for Epi-Aid investigations. However, this mechanism is no longer available for rapid suicide responses due to the narrowing in scope of that generic. CDC requests approval for a 3-year period for this Generic Information Collection Request to rapidly respond to urgent requests for CDC assistance to investigate an apparent and unexplained potential cluster or increase in suicidal behavior. Rapid Response Suicide Investigation Data Collections are specifically designed to inform the implementation of prevention strategies in a state, county, community, or vulnerable population where a possible suicide cluster or increasing trend has been observed. This generic clearance will not be used to conduct research studies or to collect data designed to draw conclusions about the United States or areas beyond the defined geographic location or vulnerable population that is the focus of the investigation.

These public health data are used by external partners (*e.g.,* local, state, territory, and tribal health authorities; other federal agencies; local and state leaders; schools; or other partner organizations) to identify, prioritize, and implement strategies to prevent suicidal behavior and suicide. Rapid Response Suicide Investigation Data Collections methods will vary and depend on the unique circumstances of the urgent and rapid response and objectives determined by CDC. Investigations may use descriptive and/or cohort- or case-control designs. Data collection modes may include: (a) Archival record abstraction; (b) face-to-face interview; (c) telephone interview; (d) web-based questionnaire; (e) self-administered questionnaire; and (f) focus groups. Multiple data collection designs and modes are likely to be employed in a single investigation. The subpopulation will vary and depend on the unique circumstances of the Rapid Response Suicide Investigation Data Collections. Requests for assistance may include a state, county, community, or vulnerable population. Suicide rates are increasing across age-groups and vulnerable populations, include, but are not limited to, youth, middle-aged adults, active duty service personnel, veterans, and American Indian/Alaska Native communities. Investigations likely will often require collection of information from 10 or more respondents. The data analytic approach for the Rapid Response Suicide Investigation Data Collection will vary and depend on the objectives and methods of the investigation. Multiple analytical strategies are likely to be employed in a single investigation. This may include descriptive analyses, logistic regression, and temporal and spatial cluster analyses. The goal of the analyses is to inform suicide prevention strategies by understanding (a) significant increases in fatal or nonfatal suicidal behavior; (b) the risk factors associated with trends of fatal or nonfatal suicidal behavior; (c) the groups most affected (*e.g.,* gender, age, location in community or state); and (d) current risk and protective factors and prevention opportunities. The total estimated annualized burden for this collection is 1,000 hours. The only cost to respondents will be time spent responding to the surveys.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Rapid Response Suicide Investigation Data Collection Participants.	Rapid Response Suicide Investigation Data Collection Instruments.	2,000	1	30/60

Jeffrey M. Zirger,

Acting Chief, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–14172 Filed 6–29–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2027]

Agency Information Collection Activities; Proposed Collection; Comment Request; Survey of Current Manufacturing Practices for the Cosmetics Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) 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 and to allow 60 days for public comment in response to the notice. This notice solicits comments on a new information collection: A survey of the cosmetics industry on their current manufacturing practices.

DATES: Submit either electronic or written comments on the collection of information by August 31, 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 31, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 31, 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–2027 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Survey of Current Manufacturing Practices for the Cosmetics Industry.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Ila 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: 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 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.

Survey of Current Manufacturing Practices for the Cosmetics Industry—OMB Control Number 0910—New

FDA has the responsibility to protect public health and, as part of this broad mandate, oversees the safety of the nation's cosmetic products. The Federal Food, Drug, and Cosmetic Act (FD&C Act) prohibits the introduction into interstate commerce of any cosmetic that is adulterated or misbranded.

The FD&C Act defines cosmetics as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance. Among the products included in this definition are skin moisturizers, perfumes, lipsticks, fingernail polishes, eye and facial makeup, cleansing shampoos, permanent waves, hair colors, deodorants, and tattoo inks, as well as any substance intended for use as a component of a cosmetic product. Some cosmetic products are also regulated as drugs.

As with other commodities FDA regulates, the safety of cosmetic products can be ensured in part through a manufacturer's approach to the management of cosmetic quality. To date, FDA has not identified in the published literature any systematic, detailed study of the diversity of the practices and standards employed across the cosmetic industry to ensure product quality and safety. This study is intended to fill this gap. FDA proposes to conduct a voluntary survey of cosmetics establishments to identify the current quality management and safety practices in the cosmetic industry.

The survey instrument will collect data, on a voluntary basis, from cosmetic product manufacturers on the following topics:

- Written Procedures and Documentation—including written procedures and records for manufacturing involving personnel, raw materials, processing, cleaning, maintenance, finished products, and training.
- Buildings and Equipment—including facility space, pest control, practices ensuring the cleanliness and sanitation, water usage and treatment, and the proper functioning and operation of equipment.
- Materials and Manufacturing—including practices for inventory management, labeling and storage of raw materials, closures, and in process materials; and in process standard operating procedures.
- Quality Control/Product Testing—including the scope of the quality control unit, laboratory testing, dealing with rejected or returned products and complaints, and corrective actions.

In addition, FDA will obtain the characteristics of surveyed establishments such as the types of cosmetics produced, published standards and guidelines followed, the number of employees, the volume of production, and the approximate revenue. The survey will be administered by web or by mail (respondent choice) and it will be directed to the Plant Manager of the cosmetics establishment.

This is a new, one-time data collection. FDA does not plan to collect this data from the cosmetics industry on an ongoing basis.

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
Survey Invitation	898	1	898	0.08 (5 minutes)	71.84
Survey	564	1	564	0.5 (30 minutes)	282.00
Total					353.84

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We will select a sample of 898 establishments. After adjusting for ineligibility (*i.e.,* firms that do not produce cosmetic products and those no longer in operation) and a response rate of 70 percent, we expect 564 completed surveys.

We expect each individual survey invitation to take 5 minutes (0.08 hour) to complete. Multiplying by the 898 establishments that will receive the survey invitation, we estimate the time burden of the survey invitation to be 71.84 hours. We expect each individual survey to take 30 minutes (0.5 hour) to complete. Multiplying by the estimated 564 establishments that will complete the survey, we estimate the time burden of the survey to be 282 hours. We estimate the total hourly reporting burden for this collection of information to be 353.84 hours.

Dated: June 26, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–14158 Filed 6–29–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice informs the public of the availability of the complete lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage

areas (HPSAs) as of May 1, 2018. The lists are available on HRSA's HPSAFind website.

ADDRESSES: Complete lists of HPSAs designated as of May 1, 2018, are available on the HPSAFind website at *https://datawarehouse.hrsa.gov/tools/analyzers/hpsafind.aspx.* Frequently updated information on HPSAs is available at *http://datawarehouse.hrsa.gov.* Information on shortage designations is available at *https://bhw.hrsa.gov/shortage-designation.*

FOR FURTHER INFORMATION CONTACT: For further information on the HPSA designations listed on the HPSAFind website or to request additional designation, withdrawal, or reapplication for designation, please contact Melissa Ryan, Acting Director, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 11SWH03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594–5168 or *MRyan@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the Public Health Service (PHS) Act, 42 U.S.C. 254e, provides that the Secretary shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary annually publish lists of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary.

Final regulations (42 CFR part 5) were published in 1980 that include the criteria for designating HPSAs. Criteria were defined for seven health professional types: Primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care. The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently-funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

HPSA designation offers access to potential federal assistance. Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary medical care, mental health, or dental health services in or to these HPSAs. NHSC health professionals enter into service agreements to serve in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA's Bureau of Health Workforce (BHW). Other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare and Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

Content and Format of Lists

The three lists of designated HPSAs are available on the HPSAFind website and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 1, 2018. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on June 26, 2017 (**Federal Register**/Vol. 82, No. 121/Monday, June 26, 2017/Notices 28863).

In addition, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. Further, the Health Care Safety Net Amendments of 2002 provides eligibility for automatic facility HPSA designations for all federally qualified health centers (FQHCs) and rural health clinics that offer services regardless of ability to pay. Specifically, these entities include FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included on this listing. Absence from this list does not exclude them from HPSA designation; facilities eligible for automatic designation are included in the database when they are identified.

Each list of designated HPSAs is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, a county is part of a larger designated service area, or a population group residing in a county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. A county that has a whole county geographic HPSA is indicated by the phrase ''Entire county HPSA'' following the county name.

Development of the Designation and Withdrawal Lists

Requests for designation or withdrawal of a particular geographic area, population group, or a facility as a HPSA are received continuously by BHW. Under a Cooperative Agreement between HRSA and the 54 state and territorial Primary Care Offices (PCOs), PCOs conduct needs assessments and submit the majority of the applications to HRSA to designate areas as HPSAs. BHW refers requests that come from other sources to PCOs for review. In addition, interested parties, including Governors, State Primary Care Associations, and state professional associations, are notified of requests so that they may submit their comments and recommendations.

BHW reviews each recommendation for possible addition, continuation, revision, or withdrawal. Following review, BHW notifies the appropriate agency, individuals, and interested organizations of each designation of a HPSA, rejection of recommendation for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification from BHW and are updated daily on the HPSAFind website. The effective date of a withdrawal will be the next publication of a notice regarding the list in the **Federal Register**.

Dated: June 26, 2018.

George Sigounas,

Administrator.

[FR Doc. 2018–14115 Filed 6–29–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990—new]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before August 31, 2018.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–New–60D and project title for reference., to *Sherrette.Funn@hhs.gov,* or call the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: SMARTool Pilot Replication Project.

Type of Collection: OMB No. 0990–NEW—Office of the Assistant Secretary for Health (OASH).

Abstract: The Office of the Assistant Secretary for Health (OASH), U.S. Department of Health and Human Services (HHS), is requesting approval by OMB of a new information collection request. OASH is updating the Center for Relationship Education's Systematic Method for Assessing Risk-Avoidance Tool (SMARTool), a tool for sexual risk avoidance (SRA) curriculum developers and implementing organizations (IOs) to ensure that their SRA curricula are grounded in evidence. In an effort to assess the SMARTool's impact, OASH aims to conduct a formative evaluation to (1) provide preliminary evidence on the effectiveness of SRA curricula that are aligned with the SMARTool, (2) derive lessons learned to improve the implementation of SRA curricula, and (3) develop and test baseline and follow-up questionnaires that assess SRA program effects on the key SMARTool constructs. The evaluation will be conducted with an estimated four IOs. The evaluation will use quantitative and qualitative methods and will include both a process evaluation and an outcome evaluation.

Need and Proposed Use of the Information: To enhance the rigor of the evaluation, a comparison group will be identified for each IO, if possible. This would enable an assessment of whether any changes identified in individual and contextual risk and protective factors in the intervention group differ from those in the comparison group. The process evaluation will describe in detail each IO's program, how it was delivered, and factors that may have influenced the success of the program's implementation. Process evaluation data are necessary for the interpretation of outcome findings and to inform efforts to improve program implementation. Depending on their performance on measures of reliability and validity, the baseline and follow-up questionnaires may be made available to organizations planning to evaluate curricula that are aligned with the SMARTool.

Likely respondents: Respondents will include participants in each of the IOs' SRA programs (9th or 10th grade youth), their parent(s), program facilitators, representatives of schools participating in the program (*e.g.,* school principals), and school or school district administrative staff.

EXHIBIT 1—TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (hours)
Outcome Evaluation					
Parents	Parental consent	2,356	1	5/60	196
High school students	Youth Assent	2,356	1	5/60	196
	Baseline survey	2,356	1	30/60	1178
	Follow-up survey	2,120	1	30/60	1060
School or school district administrative staff.	Classroom roster report	24	1	120/60	48
Process Evaluation					
Program Facilitators	Process Evaluation Facilitator Session Log.	48	20	15/60	240
Program Facilitators	Process Evaluation Facilitator Survey.	38	1	25/60	16
High school students	Process Evaluation Participant Survey.	1,060	1	10/60	177
Program facilitators, site representatives.	Process Evaluation Key Informant Interviews.	24	1	60/60	24
Teachers	Attendance form	48	20	5/60	80
Total burden					3,135

Terry Clark,

Asst Information Collection Clearance Officer, Office of the Secretary.

[FR Doc. 2018–14203 Filed 6–29–18; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Statement of Organization, Functions, and Delegations of Authority

Part M of the Substance Abuse and Mental Health Services Administration (SAMHSA) Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) is amended to reflect new functional statements for the Office of the Assistant Secretary for Mental Health and Substance Use and the Center for Behavioral Health Statistics and Quality. In addition this notice establishes the new National Mental Health and Substance Use Policy Laboratory (NMHSUPL). This reorganization is to ensure compliance with the requirements set forth in the 21st Century Cures Act, and to better align the agency in maximizing the talent and resources available to improve the efficiency of SAMHSA programs.

Section M.20, Functions is amended as follows:

Establishing the Office of the Assistant Secretary for Mental Health and Substance Use (OAS) and abolishing the Immediate Office of the Administrator. Realigning the President's Emergency Plan for AIDS Relief Activities Branch from the Center for Substance Abuse Treatment to the OAS. Realigning the Office of Tribal Affairs and Policy, the Office of Indian Alcohol and Substance Abuse, the Office of the Chief Medical Officer, and the Executive Correspondence Branch, from the Office of Policy, Planning, and Innovation (OPPI) to the OAS. Renaming the Office of Behavioral Health Equity to the Office of Behavioral Health Equity and Justice-Involved and renaming the Division of Regional and National Policy Liaison to the Office of Intergovernmental and External Affairs and realigning both from OPPI to the OAS. Establishing the National Mental Health and Substance Use Policy Laboratory and transferring to it the functions of OPPI. Abolishing the Division of Policy Coordination and the Division of Policy Innovation and Policy Analysis Branch from OPPI. Codifying the existing Center for Behavioral Health Statistics and Quality (CBHSQ) and renaming CBHSQ's Division of Evaluation, Analysis, and Quality to the Office of Evaluation. The Office of Communication remains an integral part of the OAS and was not impacted by this reorganization. The functional statement for each office is changed to read as follows:

Office of the Assistant Secretary (MA)

The Office of the Assistant Secretary (OAS): (1) Maintains a system to disseminate research findings and evidence-based practices to service providers to improve treatment and prevention services and incorporate these findings into SAMHSA programs; (2) ensures that grants are subject to performance and outcome evaluations and that center directors consistently document the grant process and conduct ongoing oversight of grantees; (3) consults with stakeholders to improve community-based and other mental health services, including adults with a serious mental illness (SMI), and children with a serious emotional disturbance (SED); (4) collaborates with other federal departments, including the Departments of Defense (DOD), Veterans Affairs (VA), Housing and Urban Development (HUD), and Labor (DOL) to improve care for veterans and service members, and support programs to address chronic homelessness; and (5) works with stakeholders to improve the recruitment and retention of mental health and substance use disorder professionals. In addition, the OAS provides leadership in the development of agency policies and programs, and maintains a close working relationship and coordination with Congress, other operating and staff divisions within the Department of Health and Human Services, and external Federal and private sector entities.

The OAS consists of the Office of Communications, Office of Intergovernmental and External Affairs, the Office of Behavioral Health Equity and Justice-Involved, the Office of Tribal Affairs and Policy/Office of Indian Alcohol and Substance Abuse, and the Office of the Chief Medical Officer.

Office of Communications (MAB)

Provides leadership in the development of SAMHSA's priorities, strategies, and practices for effective communications to targeted public audiences, including relations with the media; and serves as a focal point for communications activities as follows: (1) Coordinates agency communications activities; (2) plans public events, including press conferences, speeches, and site visits for the Administrator, other SAMHSA officials, and DHHS representatives; (3) publishes SAMHSA brochures, fact sheets, and quarterly issues of SAMHSA News; (4) coordinates electronic dissemination of information, within the Agency and through the internet and World-Wide Web; (5) develops communications channels and targets media placements; (6) develops and disseminates news releases and coordinates media contacts with Agency representatives; (7) provides editorial and policy review of all Agency publications; (8) fulfills public affairs requirements of DHHS; (9) provides Agency contributions to the DHHS forecast report on significant activities; and (10) manages the Agency conference exhibit program.

Office of Intergovernmental and External Affairs (MAC)

The Office of Intergovernmental and External Affairs (OIEA) serves as the central point for providing leadership and coordination in establishing and maintaining a collaborative effort between SAMHSA, other government agencies, and service providers in order to improve behavioral health outcomes. The Office is SAMHSA's lead for institutional and intergovernmental communication and coordination. As such, the Office: (1) Ensures that critical information from the field is incorporated into all policy activities and shared broadly across SAMHSA to support program development and implementation; (2) establishes and sustains relationships between SAMHSA and key stakeholders in other government agencies and institutions; (3) ensures that SAMHSA's policies are effectively communicated to Regional and National stakeholders; and, (4) meets routinely with staff from Centers and Offices to discuss program policy issues, seek input, and review progress.

Office of Behavioral Health Equity and Justice-Involved (MACA)

The Office of Behavioral Health Equity and the Justice-Involved (OBHEJI) coordinates agency efforts to ensure that racial and ethnic minority, underserved, and criminal justice-involved populations have equitable access to high quality behavioral health care. Functions of the office include: (1) Strengthening SAMHSA's capacity, through its grant programs and technical assistance efforts, to address the behavioral health needs of minority, underserved and justice involved populations; (2) enhancing measurement and data strategies to identify, assess and respond to the behavioral health challenges for these populations; (3) promoting policy initiatives that strengthen SAMHSA's programs and the broader field in improving the behavioral health of the underserved and the justice-involved; and, (4) expanding the behavioral health

workforce capacity to improve outreach, engagement and quality of care.

Office of Tribal Affairs and Policy/ Office of Indian Alcohol and Substance Abuse (MACB)

The Office of Tribal Affairs and Policy (OTAP)/Office of Indian Alcohol and Substance Abuse (OIASA) coordinates federal partners and provides tribes with technical assistance and resources to develop and enhance prevention and treatment programs for substance use disorders, including the misuse of alcohol. The Office serves as the agency's primary point of contact for tribal governments, tribal organizations, and federal agencies on behavioral health issues that impact tribal communities.

OTAP/OIASA is charged with aligning, leveraging, and coordinating federal agencies and departments in carrying out SAMHSA's responsibilities delineated in the Tribal Law and Order Act (TLOA). This effort is overseen through the Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee, which is comprised of more than 60 members representing a range of federal agencies and departments.

PEPFAR Activities Branch (MACC)

The President's Emergency Plan for AIDS Relief (PEPFAR) Activities Branch: (1) Provides leadership and direction to activities, under the PEPFAR mission, that impact the global HIV epidemic through the delivery of substance abuse treatment as part of HIV/AIDS prevention, care, and treatment; (2) serves as the point of contact (POC) for all SAMHSA PEPFAR operational activities and provides leadership and direction to technical, budget and programmatic aspects of the SAMHSA PEPFAR program; (3) works in collaboration with other agency's staff to guide policy development and innovation related to HIV and hepatitis within the context of a broader international agenda, including work with other SAMHSA Centers to identify additional behavioral health evidence based practices and initiatives that are relevant to SAMHSA's role in PEPFAR; (4) serves as the POC for both the Office of Global Affairs in HHS and the Office of the Global AIDS Coordinator and Health Diplomacy (S/GAC) in the State Department on all SAMHSA PEPFAR related activities and coordinates all matters of PEPFAR policy; and (5) oversees and coordinates responsibilities for PEPFAR within SAMHSA, including (a) SAMHSA PEPFAR operational activities to include budget, programmatic activities, as well as, new initiatives and activities developed at the Office of the Global AIDS Coordinator and Health Diplomacy (S/GAC); (b) SAMHSA PEPFAR data activities and reporting to the Interagency Collaborative for Program Improvement (ICPI); (c) SAMHSA related PEPFAR Technical Working Group (TWG) activities and assignments; (d) SAMHSA headquarters technical assistance (TDYs) on substance abuse treatment and HIV prevention, care and treatment; and (e) SAMHSA participation in PEPFAR country reviews and new and evolving PEPFAR activities, including policy development.

Executive Correspondence and Support Branch (MACD)

The Executive Correspondence and Support Branch: (1) Receives, analyzes, assigns, distributes and tracks executive correspondence and maintains files; (2) ensuring responsiveness, quality and timeliness of executive correspondence; (3) issues guidance and establishes administrative processes to ensure that executive correspondence complies with all DHHS requirements and reflects positively on the reputation of SAMHSA; and, (4) responds to Freedom of Information Act requests.

Office of the Chief Medical Officer (MAD)

The Office of the Chief Medical Officer (OCMO) provides assistance to the Assistant Secretary in evaluating and organizing programs within the Agency, and to promote evidence-based and promising best practices emphasizing clinical focus. The OCMO has in-depth experience providing mental health care or substance use disorder treatment services. Furthermore, the OCMO coordinates with the Assistant Secretary for Planning and Evaluation (ASPE) to assess the use of performance metrics to evaluate SAMHSA programs, and to coordinate with the Assistant Secretary to ensure consistent utilization of appropriate performance metrics and evaluation designs.

National Mental Health and Substance Use Policy Laboratory (MD)

The National Mental Health Substance Use and Policy Laboratory (NMHSUPL) promotes evidence-based practices and service delivery models through evaluating models that would benefit from further development and through expanding, replicating, or scaling evidence-based programs across a wider area. The NMHSUPL: (1) Identifies, coordinates, and facilitates the implementation of policy changes likely to have a significant effect on mental health, mental illness (especially severe mental illnesses such as schizophrenia and schizoaffective disorders), recovery supports, and the prevention and treatment of substance use disorder services; (2) works with the Center for Behavioral Health Statistics and Quality (CBHSQ) to collect information from grantees under programs operated by the Administration in order to evaluate and disseminate information on evidence-based practices, including culturally and linguistically appropriate services, as appropriate, and service delivery models; and (3) carry out other activities as deemed necessary to continue to encourage innovation and disseminate evidence-based programs and practices.

Center for Behavioral Health Statistics and Quality (MC)

The Center for Behavioral Health Statistics and Quality: (1) Coordinates the Assistant Secretary for Mental Health and Substance Use's integrated data strategy, which includes collecting data each year on the national incidence and prevalence of the various forms of mental illness and substance abuse; (2) provides statistical and analytical support for activities of the Assistant Secretary for Mental Health and Substance Use, and the Secretary of DHHS; (3) recommends a core set of performance metrics to evaluate activities supported by the Administration; (4) coordinates with the Assistant Secretary for Mental Health and Substance Use, the Assistant Secretary for Planning and Evaluation, and the Substance Abuse and Mental Health Services Administration (SAMHSA) Chief Medical Officer, as appropriate, to improve the quality of services provided by programs and the evaluation of activities carried out by the Administration; (5) works with the National Mental Health and Substance Use Policy Laboratory to collect, as appropriate, information from grantees under programs in order to evaluate and disseminate information on evidence-based practices, including culturally and linguistically appropriate services, as appropriate, and service delivery models; (6) improves access to reliable and valid information on evidence-based programs and practices, including information on the strength of evidence associated with such programs and practices, related to mental and substance use disorders; (7) compiles, analyzes, and disseminates behavioral health information for statistical purposes.

Office of the Director (MC1)

The Office of the Director: (1) Plans, directs, administers, coordinates, and evaluates the integrated data strategy of the Center; (2) ensures that data collection, analytic activities, dissemination activities, and evaluation efforts are consistent with the mission and priorities of the Department and the Agency; (3) directs the Center's health systems statistical programs and evaluations; (4) provides management and administration for the Center; (5) serves as Agency primary liaison to the Office of the Secretary, the Office of National Drug Control Policy, and other Federal agencies; to State and local government agencies; and to non-governmental organizations and institutions on matters related to the collection and analysis of data on substance use and mental health issues; and (6) oversees the process for internal clearance, publishing, and dissemination of statistical studies, reports, and evaluations produced by CBHSQ.

Office of Program Analysis and Coordination (MCA)

The Office of Program Analysis and Coordination supports the Center's implementation of programs and policies by providing guidance in the administration, analysis, planning, and coordination of the Center's programs, consistent with agency priorities. Specifically the Office: (1) Manages the Center's participation in the agency's policy, planning, budget formulation and execution, program development and clearance, and internal and external requests, including strategic planning, identification of program priorities, and other agency-wide and departmental planning activities; (2) Provides support for the Center Director, including coordination of staff development activities, analysis of the impact of proposed legislation and rule-making, and supporting administrative functions, including human resource-related actions; and (3) coordinates release of survey data information through electronic reports and web based media in conjunction with Office of Communication.

Division of Surveillance and Data Collection (MCB)

The Division is responsible for developing, conducting, and improving surveys carried out by CBHSQ according to statute. Specifically the Division: (1) Plans, develops, and manages the national surveys of the general population, treatment providers, and patients focused on behavioral health disorders, adverse consequences, and treatment utilization and availability; (2) consistent with the CBHSQ publications plan, makes CBHSQ data available to the general public, policymakers at the Federal, state, and local government levels, and researchers through annual reports for agency, peer- reviewed sources, publications, and customized data files (public and restricted-use) in accordance with confidentiality statutes and regulations and OMB guidance and with Federal partners, as appropriate; (3) carries out methodological studies to assess and improve data collection methods and data quality and determines the comparability of data from SAMHSA surveys with those of other surveys conducted on behavioral health disorders; (4) responds to data inquiries and provides technical assistance to SAMHSA, other Federal agencies, state, and local governments, private organizations, researchers, and the public on the findings and appropriate interpretation of the data from CBHSQ surveys, as well as surveys sponsored by other organizations; (6) serves as a source of expertise for SAMHSA and the Department on survey methods, sampling design, statistics, analytical techniques, and participates in interagency workgroups to promote information-sharing and collaboration on statistical issues across agencies; and (7) manages statistical and analytical support team that analyzes and disseminates CBHSQ data.

Population Surveys Branch (MCBA)

The Population Surveys Branch plans, develops, and manages the National Survey on Drug Use and Health (NSDUH). Specifically the Branch: (1) According to statute, provides annual national estimates, as well as periodic state, sub-state, and metropolitan area estimates on the incidence, prevalence, correlates, and consequences of illicit drug use, alcohol and tobacco use, and mental health disorders and related treatment in the general population; (2) keeps abreast of current advances in survey design techniques and emerging data needs and research findings, and updates the survey design and analysis plans to meet those needs; and develops and implements new questionnaires and sampling, data collection, estimation, and analysis methods reflecting these needs for surveys; (3) manages the NSDUH data collection by reviewing the data collection materials, observing data collection, observing field interviewer training, tracking response rates, and resolving data quality problems; (4) evaluates methods used in population surveys and their impact on data quality, including comparing CBHSQ data with other existing data to help guide interpretation and promote appropriate uses of data; (5) manages the survey contract to ensure the reliability and validity of the data and (6) maintains partnerships with other organizations collecting and analyzing data on behavioral health disorders in support of agency's mission.

Treatment Services Branch (MCBB)

The Treatment Services Branch plans, develops, and manages national surveys of mental health and substance use treatment service facilities and client level data collections related to the nation's behavioral health treatment systems according to statute. These data collections include the National Survey of Substance Abuse Treatment Services (N–SSATS), the National Mental Health Services Survey (N–MHSS), the Treatment Episode Data Set (TEDS), the Mental Health Client-Level Data (MH–CLD) system, the SAMHSA Emergency Department Surveillance System (SEDSS) and other studies of the behavioral health treatment system. Specifically the Branch: (1) Provides annual national census data, as well as State, and metropolitan area data on the number, location, services provided, operational characteristics, and utilization of mental health and substance use treatment facilities; and provides client-level data on the characteristics of persons admitted to behavioral health treatment and their status post-admission and at discharge; (2) according to statute, manages and directs the collection of survey data used to develop and maintain a web-based treatment service Locator for behavioral health disorders, and conducts periodic testing and analyses to improve the accessibility and utility of the Locator and collaborates with the SAMHSA Office of Communication, as appropriate, in usability studies; (3) manages the associated survey contracts to ensure the reliability and validity of the data; (4) maintains the quality and relevance of the data through partnership with state behavioral health agencies, and (5) coordinates partnership efforts with the Center for Disease Control, National Center for Health Statistics (NCHS) related to the collection of behavioral health emergency department data for SEDSS through the National Ambulatory Medical Care Survey (NHCS).

Office of Evaluation (MCC)

The Office of Evaluation is responsible for providing centralized planning and management of program evaluation across SAMHSA in

partnership with program originating Centers, providing oversight and management of agency quality improvement and performance management activities and for advancing agency goals and objectives related to program evaluation, performance measurement, and quality improvement. Specifically, the Office: (1) Develops evaluation language for Request for Proposals (RFPs), Request for Applications (RFAs), and other funding announcements to ensure a clear statement of evaluation expectations in the announcements; (2) develops and implements standard measures for evaluating program performance and improvement of services; (3) manages the design of SAMHSA program evaluations in collaboration with the relevant Center(s); (4) monitors evaluation contracts to ensure implementation of planned evaluation and provides early feedback regarding program start-up for use in agency decision-making; (5) works collaboratively with the National Mental Health and Substance Use Policy Laboratory to provide support for SAMHSA evaluations; (6) oversees the identification of a set of performance indicators to monitor each SAMHSA program in collaboration with program staff and the development of periodic evaluation reports for use in agency planning, program change, and reporting to departmental and external organizations; (7) provides collaboration, guidance, and systematic feedback on SAMHSA's programmatic investments to support the agency's policy and program decisions; (8) analyzes and disseminates evaluation related data and reports in support of Secretarial and Assistant Secretarial initiatives and develops evaluation and performance related reports in response to internal and external requests; (9) provides oversight of the agency's quality improvement efforts, including the collection, analysis, and reporting of performance measurement and quality monitoring and improvement data; (10) provides oversight and management of SAMHSA's Performance Accountability and Reporting System (SPARS) which serves as a mechanism for the collection of performance data from agency grantees; (11) responds to agency and departmental requests for performance measurement data and information; and conducts a range of analytic and support activities to promote the use of performance data and information in the monitoring and management of agency programs and initiatives; and (12) maintains the posting, on the internet, of information on evidence-based programs and practices that have been reviewed by the Assistant Secretary for Mental Health and Substance Use.

Delegation of Authority

All delegations and re-delegations of authority made to SAMHSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

Dated: June 25, 2018.

Alex M. Azar II,

Secretary.

[FR Doc. 2018–14165 Filed 6–29–18; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240–276–2600 (voice).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories).

HHS-Certified Laboratories

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 844–486–9226.

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center—Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories).

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

Legacy Laboratory Services—MetroLab, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088, Testing for Veterans Affairs (VA) Employees Only.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, WA 98421, 800–442–0438.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Charles P. LoDico,

Chemist.

[FR Doc. 2018–14143 Filed 6–29–18; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0100]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for the Return of Original Documents; Correction

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice; correction.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments. DHS, USCIS published a document in the **Federal Register** of June 26, 2018, concerning request for comments on USCIS Form G–884. The document contains incorrect identification of the Type of Information Request.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 1, 2018.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the

OMB Control Number [1615–0100] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of June 26, 2018, at 83 FR 29813, in the first column, correct the ''Agency Information Collection Activities'' caption to read: Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for the Return of Original Documents. Additionally, in the second column, correct the ''(1) Type of Information Collection Request'' caption to read: Revision of a Currently Approved Collection.

Comments

The information collection notice was previously published in the **Federal Register** on April 10, 2018, at 83 FR 15393, allowing for a 60-day public comment period. USCIS did not receive any comment(s) in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0010 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the form/collection:* Request for the Return of Original Documents.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–884; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information will be used by USCIS to determine whether a person is eligible to obtain original documents contained in an alien file.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–884 is 6,600 and the estimated hour burden per response is 0.5 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,300 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $808,500.

Dated: June 26, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–14119 Filed 6–29–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0032]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Waiver of Grounds of Inadmissibility Under Sections 245A or 210 of the Immigration and Nationality Act

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 31, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0032 in the body of the letter, the agency name and Docket ID USCIS–2006–0047. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0047;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case

status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0047 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Revision of a Currently Approved Collection.

(2) *Title of the form/collection:* Application for Waiver of Grounds of Inadmissibility Under Sections 245A or 210 of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–690; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS will use this form to determine whether applicants are eligible for admission to the United States under sections 210 and 245A of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–690 is 30 and the estimated hour burden per response is 3 hours. The estimated total number of respondents for the information collection Supplement 1 is 11 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 112 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $4,522.50.

Dated: June 26, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–14120 Filed 6–29–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW035.L51050000.EA0000. LVRCF1805950.241A.18XL5017AP MO#4500121464]

Temporary Closure and Temporary Restrictions of Specific Uses on Public Lands for the 2018 Burning Man Event (Permitted Event), Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure and restrictions.

SUMMARY: Under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office, will implement a temporary closure and temporary restrictions to protect public safety and resources on public lands within and adjacent to the Burning Man event on the Black Rock Desert playa.

DATES: The temporary closure and temporary restrictions will be in effect from July 29, 2018, to October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mark E. Hall, Field Manager, BLM Black Rock Field Office, Winnemucca District, 5100 E Winnemucca Blvd., Winnemucca, NV 89445–2921; telephone: 775–623–1500; email: *mehall@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The temporary closure and temporary restrictions affect public lands within and adjacent to the Burning Man event permitted on the Black Rock Desert playa within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Pershing County, Nevada. The temporary closure of public lands will be conducted in two phases in order to limit impacts on the general public outside of the Burning Man event. Phase 1 will encompass a smaller temporary closure area during the building and tear-down of Black Rock City and Phase 2 will encompass the larger, full temporary closure area during the event itself. Phase 2 includes all of the Phase 1 area. The Phase 2 temporary closure is the same size as the temporary closure area for the Burning Man event in previous years.

The legal description of the affected public lands in the temporary public closure area of both stages is Mount Diablo Meridian, Nevada:

Phase 1, being the smaller area of 9,715 acres, will be effective for 22 days before the main event from 12:01 a.m. Sunday, July 29, 2018, until 6 a.m. Monday, August 20, 2018. Phase 1 resumes for 23 days following the event at 6 a.m. Saturday, September 8, 2018, through 12:01 a.m. Monday, October 1, 2018.

Phase 1

T. 33 N, R. 24 E, unsurveyed,
Sec. 1, NW¼NW¼
Sec. 2, N½;
Sec. 3;
Sec. 4 and 5, those portions lying southeasterly of Washoe County Road 34;
Sec. 9, N½;
T. 33½ N, R. 24 E, un-surveyed,
Secs. 25 and 26;
Secs. 27, 33, and 34, those portions lying southeasterly of West Playa Highway
Secs. 35 and 36.
T. 34 N, R. 24 E, partly un-surveyed,
Sec. 25
Secs. 26 and 27, those portions lying southeasterly of West Playa Highway
Sec. 34, E½, those portions lying southeasterly of West Playa Highway
Secs. 35 and 36.
T. 34 N, R. 25 E, un-surveyed,
Secs. 21 and 28;
Sec. 33, N½, S½SW¼

Phase 2, being the larger area of 14,153 acres, includes all of Phase 1, will be effective for 19 days from 6 a.m. Monday, August 20, 2018, until 6 a.m. Saturday, September 8, 2018.

Phase 2

T. 33 N, R. 24 E, unsurveyed,
Sec. 1 and 2, those portions lying northwesterly of East Playa Road;
Sec. 3;
Sec. 4, that portion lying southeasterly of Washoe County Road 34;
Sec. 5;
Sec. 8, NE¼;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, that portion of the N½ lying northwesterly of East Playa Road.
T. 33½ N, R. 24 E, un-surveyed,
Secs. 25, 26, and 27;
Sec. 28 and 33, those portions lying easterly of Washoe County Road 34;
Secs. 34, 35, and 36.
T. 34 N, R. 24 E, partly un-surveyed,
Sec. 23, S½;
Sec. 24, S½;
Secs. 25 and 26;
Sec. 27, E½NE¼, E½SW¼, SE¼;
Sec. 33, NE¼NE¼, S½NE¼, that portion of the SW¼ lying northeasterly of Washoe County Road 34, SE¼;
Secs. 34, 35, and 36.
T. 33 N, R. 25 E,
Sec. 4, that portion lying northwesterly of East Playa Road.
T. 34 N, R. 25 E, un-surveyed,
Sec. 16, S½;
Sec. 21;
Sec. 22, W½NW¼, SW¼;
Sec. 27, W½;
Sec. 28;
Sec. 33, that portion lying northwesterly of East Playa Road;
Sec. 34, that portion of the W½ lying northwesterly of East Playa Road.

The two-phase temporary closure area is in Pershing County, Nevada, and is necessary for the period of time from July 29, 2018, to October 1, 2018, because of the Burning Man event. The event's activities begin with fencing the site perimeter, Black Rock City setup (July 29 to August 20), followed by the actual event (August 20 to September 4), Black Rock City tear down and cleanup, and final site cleanup (September 4 to October 1). This event is authorized on public land under Special Recreation Permit #NVW03500–18–01.

The public temporary closure area comprises about 13 percent of the Black Rock Desert playa. Public access to the other 87 percent of the playa outside the temporary closure area will remain open to dispersed casual use.

The event area is fully contained within the Phase 2 temporary closure area. The event area is defined as the portion of the temporary closure area that: (1) Is entirely contained within the event perimeter fence, including 50 feet from the outside of the event perimeter fence; (2) Lies within 25 feet from the outside edge of the event access road; and (3) Includes the entirety of the aircraft parking area outside the event perimeter fence.

The temporary closure and restrictions are necessary to provide a safe environment for the the staffs/volunteers, paid participants and members of the public visiting the Black Rock Desert, and to protect public land resources by addressing law enforcement and public safety concerns associated with the event. The temporary closure and temporary restrictions are also necessary to enable BLM law enforcement personnel to provide for public safety and to protect the public lands as well as to support and assist State and local agencies with enforcement of existing laws. The permitted event takes place within Pershing County, Nevada, a rural county with a small population and a small Sheriff's Department. Key BLM staff members—including the authorizing officer for the 2018 event, the event incident commander, and the law enforcement operations chief—met with the Pershing County Sheriff and his planning team to coordinate and plan the 2018 event. The Sheriff's input and comments are incorporated in this temporary closure order.

The event attracts up to 70,000 paid participants to a remote, rural area, located more than 90 miles from urban infrastructure and support, including such services as public safety, emergency medical delivery, transportation, and communication. During the event, Black Rock City, the temporary city associated with the event, becomes one of the largest population areas in Nevada.

A temporary closure and restrictions order, under the authority of 43 CFR 8364.1, is appropriate for a single event. The temporary closure and restrictions are specifically tailored to the time frame that is necessary to provide a safe environment for the public and for participants at the Burning Man event and to protect public land resources while avoiding imposing restrictions that may not be necessary in the area during the remainder of the year.

The BLM will post copies of the temporary closure, temporary restrictions, and an associated map in kiosks at access points to the Black Rock Desert playa as well as at the Gerlach Post Office, Bruno's Restaurant, Empire Store, Black Rock City offices, Friends of Black Rock-High Rock offices, the BLM-Nevada Black Rock Station near Gerlach, and the BLM-California Applegate Field Office. The BLM will also make the materials available on the BLM external web page at: *http://www.blm.gov.*

In addition to the Nevada Collateral Forfeiture and Bail Schedule as authorized by the United States District Court, District of Nevada and under the authority of Section 303(a) of FLPMA, 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce a temporary public closure and the following temporary restrictions will apply within and adjacent to the Burning Man event on the Black Rock Desert playa from July 29, 2018, through October 1, 2018:

Temporary Restrictions

(a) Environmental Resource Management and Protection

(1) No person may deface, disturb, remove or destroy any natural object.

(2) Fires/Campfires: The ignition of fires on the surface of the Black Rock Desert playa without a burn blanket or burn pan is prohibited. Campfires may only be burned in containers that are sturdily elevated above the playa surface and in a manner that does not pose a risk of fire debris falling onto the playa surface. Plastic and nonflammable materials may not be burned in campfires. The ignition of fires other than a campfire is prohibited. This restriction does not apply to events sanctioned and regulated as art burns by the event organizer.

(3) Fireworks: The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by the permit holder and used as part of a Burning Man sanctioned art burn event.

(4) Grey and Black Water Discharge: The discharge and dumping of grey water onto the playa/ground surface is prohibited. Grey water is defined as water that has been used for cooking,

washing, dishwashing, or bathing and/or contains soap, detergent, or food scraps/residue, regardless of whether such products are biodegradable or have been filtered or disinfected. Black water is defined as waste water containing feces, urine and/or flush water.

(5) Human Waste: The depositing of human waste (liquid and/or solid) on the playa/ground surface is prohibited.

(6) Trash: The discharge of any and all trash/litter onto the ground/playa surface is prohibited. All event participants must pack out and properly dispose of all trash at an appropriate disposal facility off playa.

(7) Hazardous Materials: The dumping or discharge of vehicle oil, petroleum products or other hazardous household, commercial or industrial refuse or waste onto the playa surface is prohibited. This applies to all recreational vehicles, trailers, motorhomes, port-a-potties, generators and other camp infrastructure.

(8) Fuel Storage: Each camp storing fuel must establish a designated fuel storage area at least ten (10) feet from combustible materials, twenty-five (25) feet from generators, vehicles or camp trailers/RV's and any sources of ignition (such as cigarettes/open flame), and one-hundred (100) feet from other designated fuel storage areas. Fuel containers shall not exceed 80 percent capacity per container. The storage of greater than 110 gallons of fuel in a single camp is prohibited. Storage areas for all fuel must include a secondary containment system that can hold a liquid volume equal to or greater than 110 percent of the largest container being stored. Secondary containment measures must comply with the following:

(a) The secondary containment system must be free of cracks or gaps and constructed of materials impermeable to the fuel(s) being stored.

(b) The secondary containment system must be designed to allow the removal of any liquids captured resulting from leaks, spills or precipitation.

(9) Water Discharge: The unauthorized dumping or discharge of fresh water onto the playa surface, onto city streets and/or other public areas or onto camp electric systems in a manner that creates a hazard or nuisance is prohibited. This provision does not prohibit the use of water trucks contracted by the event organizer to provide dust abatement measures.

(b) Commercial Activities

In accordance with BLM Handbook H–2930–1 Chapter 1–C: Vending and the 2018 Special Recreation Permit Stipulation for the permitted event, ALL vendors and air carrier services must provide proof of authorization to operate at the event issued by the permitting agency and/or the permit holder upon request. Failure to provide such authorization could result in the issuance of a violation notice and/or eviction from the event.

(c) Aircraft Landing

The public temporary closure area is closed to aircraft landing, taking off and taxiing. Aircraft is defined in Title 18, U.S.C., section 31(a)(1) and includes lighter-than-air craft and ultra-light craft. The following exceptions apply:

(1) All aircraft operations, including ultra-light and helicopter landings and takeoffs, will occur at the designated 88NV Black Rock City Airport landing strips and areas defined by airport management. All takeoffs and landings will occur only during the hours of operation of the airport as described in the Burning Man Operating Plan. All pilots that use the Black Rock City Airport must agree to and abide by the published airport rules and regulations;

(2) Only fixed wing and helicopters providing emergency medical services may land at the designated Emergency Medical Services areas/pads or at other locations when required for medical incidents. The BLM authorized officer, or an authorized State/Local Law Enforcement Officer or his/her delegated representative may approve other helicopter landings and takeoffs when deemed necessary for the benefit of the law enforcement operation; and

(3) Landings or takeoffs of lighter-than-air craft previously approved by the BLM authorized officer.

(d) Alcohol/Prohibited Substance

(1) Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion, is prohibited.

(2) Possession of alcohol by minors:

(i) The following are prohibited:

(A) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands; and

(B) Selling, offering to sell or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands.

(3) Operation of a motor vehicle while under the influence of alcohol, narcotics or dangerous drugs:

(i) Title 43 CFR 8341.1(f)(3) prohibits the operation of an off-road motor vehicle on public land while under the influence of alcohol, narcotics or dangerous drugs.

(ii) In addition to the prohibition found at 43 CFR 8341.1(f)(3), it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

(A) The operator is under the combined influence of alcohol, a drug, or drugs to a degree that renders the operator incapable of safe operation of that vehicle; or

(B) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath.

(C) It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her urine or blood that is equal to or greater than the following nanograms per milliliter (ng/ml):

(1) Amphetamine: Urine, 500 ng/ml; blood, 100 ng/ml;

(2) Cocaine: Urine, 150 ng/ml; blood, 50 ng/ml;

(3) Cocaine metabolite: Urine, 150 ng/ml; blood, 50 ng/ml;

(4) Heroin: Urine, 2,000 ng/ml; blood, 50 ng/ml;

(5) Heroin metabolite:

(i) Morphine: Urine, 2,000 ng/ml; blood, 50 ng/ml;

(ii) 6-monoacetyl morphine: Urine, 10 ng/ml; blood, 10 ng/ml;

(6) Lysergic acid diethylamide: Urine, 25 ng/ml; blood, 10 ng/ml;

(7) Marijuana: Urine, 10 ng/ml; blood, 2 ng/ml;

(8) Marijuana metabolite: Urine, 15 ng/ml; blood, 5 ng/ml;

(9) Methamphetamine: Urine, 500 ng/ml; blood, 100 ng/ml;

(10) Phencyclidine: Urine, 25 ng/ml; blood, 10 ng/ml;

(iii) Tests:

(A) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this temporary closure and temporary restriction order, who has probable cause to believe that an operator of a motor vehicle has violated a provision of paragraph (i) or (ii) of this section, the operator shall submit to one or more tests of the blood, breath, saliva or urine for the purpose of determining blood alcohol and drug content.

(B) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(C) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized law enforcement officer.

(D) Any test shall be conducted by using accepted scientific methods and

equipment of proven accuracy and reliability operated by personnel certified in its use.

(iv) Presumptive levels:

(A) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (i) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (ii)(B) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(B) The provisions of paragraph (iv)(A) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or multiple drugs or any combination thereof.

(4) Definitions:

(i) Open container: Any bottle, can or other container which contains an alcoholic beverage, if that container does not have a closed top or lid for which the seal has not been broken. If the container has been opened one or more times, and the lid or top has been replaced, that container is an open container.

(ii) Possession of an open container includes any open container that is physically possessed by the driver or operator or is adjacent to and reachable by that driver or operator. This includes, but is not limited to, containers in a cup holder or rack adjacent to the driver or operator, containers on a vehicle floor next to the driver or operator, and containers on a seat or console area next to a driver or operator.

(e) Drug Paraphernalia

(1) The possession of drug paraphernalia is prohibited.

(2) Definition: Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of any State or Federal law, or regulation issued pursuant to law.

(f) Disorderly Conduct

(1) Disorderly conduct is prohibited.

(2) Definition: Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy or violence; or recklessly creating a risk thereof:

(i) Engages in fighting or violent behavior;

(ii) Uses language, an utterance or gesture or engages in a display or act that is physically threatening or menacing or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

(iii) Obstructs, resists or attempts to elude a law enforcement officer, or fails to follow their orders or directions.

(g) Eviction of Persons

(1) The public temporary closure area is closed to any person who:

(i) Has been evicted from the event by the permit holder, whether or not the eviction was requested by the BLM;

(ii) Has been evicted from the event by the BLM;

(2) Any person evicted from the event forfeits all privileges to be present within the perimeter fence or anywhere else within the public closure area even if they possess a ticket to attend the event.

(h) Motor Vehicles

(1) Must comply with the following requirements:

(i) The operator of a motor vehicle must possess a valid driver's license.

(ii) Motor vehicles and trailers must possess evidence of valid registration, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iii) Motor vehicles must possess evidence of valid insurance, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iv) Motor vehicles and trailers must not block a street used for vehicular travel or a pedestrian pathway.

(v) Motor vehicles must not exceed the posted or designated speed limits. Posted or designated speed limits also apply to: Motorized skateboards, electric assist bicycles and Go-Peds with handlebars.

(vi) No person shall occupy a trailer while the motor vehicle is in transit upon a roadway, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(vii) During night hours, from a half-hour after sunset to a half-hour before sunrise, motor vehicles, other than a motorcycle or golf cart must be equipped with at least two working headlamps and at least two functioning tail lamps, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(viii) Motor vehicles, including motorcycles or golf carts, must display a red, amber or yellow light rear light visible to the rear in normal sunlight upon application of the brake, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(ix) Motorcycles or golf carts require only one working headlamp and one working tail light during night hours, from a half-hour before sunset to a half-hour after sunrise, motor vehicles—unless registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(x) Trailers pulled by motor vehicles must be equipped with at least two functioning tail lamps and at least two functioning brake lights.

(2) The public temporary closure area is closed to motor vehicle use, except as provided below. Motor vehicles may be operated within the temporary public closure area under the circumstances listed below:

(i) Participant arrival and departure on designated routes;

(ii) BLM, medical, law enforcement and firefighting vehicles are authorized at all times;

(iii) Vehicles, mutant vehicles or art cars operated by the permit holder's staff or contractors and service providers on behalf of the permit holder are authorized at all times. These vehicles must display evidence of event registration in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(iv) Vehicles used by disabled drivers and displaying official State disabled driver license plates or placards; or mutant vehicles and art cars, or other vehicles registered with the permit holder must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(v) Participant drop-off of approved burnable material and wood to the Burn Garden/Wood Reclamation Stations (located on open playa at 3:00, 6:00,

9:00 Promenades and the Man base) from 10:00 a.m. Sunday through the end of day Tuesday, post event;

(vi) Passage through, without stopping, the public temporary closure area on the west or east playa roads or from the east side of the playa to the west and vice versa to traverse the entirety of the playa surface.

(vii) Support vehicles for art vehicles, mutant vehicles and theme camps will be allowed to drive to and from fueling stations.

(3) Definitions:

(i) A motor vehicle is any device designed for and capable of travel over land and which is self-propelled by a motor, but does not include any vehicle operated on rails or any motorized wheelchair.

(ii) Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion.

(iii) ''Trailer'' means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, this includes camp trailers, pop-up trailers, 4′ x 7′ or larger flatbed trailers, enclosed cargo trailers, or RV style trailers.

(i) Public Camping

The public temporary closure area is closed to public camping with the following exception:

The permitted event's ticket holders who are camped in designated event areas provided by the permit holder and ticket holders who are camped in the authorized pilot camp and the permit holder's authorized staff, contractors and BLM authorized event management related camps are exempt from this closure.

(j) Public Use

The public temporary closure area is closed to use by members of the public unless that person:

(i) Is traveling through, without stopping, the public temporary closure area on the west or east playa roads; possesses a valid ticket to attend the event;

(ii) Is an employee or authorized volunteer with the BLM, a law enforcement officer, emergency medical service provider, fire protection provider, or another public agency employee working at the event and that individual is assigned to the event;

(iii) Is a person working at or attending the event on behalf of the permit holder; or is authorized by the permit holder to be onsite prior to the commencement of the event for the primary purpose of constructing, creating, designing or installing art, displays, buildings, facilities or other items and structures in connection with the event;

(iv) Is an employee of a commercial operation contracted to provide services to the event organizers and/or participants authorized by the permit holder through a contract or agreement and authorized by BLM through a Special Recreation Permit.

(k) Unmanned Aircraft Systems

(1) The use of unmanned aircraft systems (UAS) is prohibited, unless the operator is authorized through and complies with the Remote Control BRC (RCBRC) program and operates the UAS in accordance with Federal laws and regulations, specifically the operational limitations under the Small Unmanned Aircraft Rule (Part 107).

(2) Definition:

(i) Unmanned aircraft means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

(ii) UAS is the unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the unmanned aircraft.

(l) Lasers

(1) The possession and or use of handheld lasers is prohibited.

(2) Definition: A laser means any hand held laser beam device or demonstration laser product that emits a single point of light amplified by the stimulated emission of radiation that is visible to the human eye.

(m) Weapons

(1) The possession of any weapon is prohibited except weapons within motor vehicles passing, without stopping, through the public temporary closure area on the designated west or east playa roads or from the east side of the playa to the west and vice versa to traverse the entirety of the playa surface.

(2) The discharge of any weapon is prohibited.

(3) The prohibitions above shall not apply to county, State, tribal and Federal law enforcement personnel who are working in their official capacity at the event. ''Art projects'' that include weapons and are sanctioned by the permit holder will be permitted after obtaining authorization from the BLM authorized officer.

(4) Definitions:

(i) Weapon means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, hand-thrown spear, sling shot, irritant gas device, electric stunning or immobilization device, explosive device, any implement designed to expel a projectile, switch-blade knife, any blade which is greater than 10 inches in length from the tip of the blade to the edge of the hilt or finger guard nearest the blade (*e.g.,* swords, dirks, daggers, machetes) or any other weapon the possession of which is prohibited by state law. Exception: This rule does not apply in a kitchen or cooking environment or where an event worker is wearing or utilizing a construction knife for their duties at the event.

(ii) Firearm means any pistol, revolver, rifle, shotgun or other device which is designed to, or may be readily converted to expel a projectile by the ignition of a propellant.

(iii) Discharge means the expelling of a projectile from a weapon.

Enforcement: Any person who violates this temporary closure or any of these temporary restrictions may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

Authority: 43 CFR 8364.1.

Mark E. Hall,

Field Manager, Black Rock Field Office, Winnemucca District.

[FR Doc. 2018–14177 Filed 6–29–18; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–945]

Certain Network Devices, Related Software and Components Thereof (II) (Modification 2); Modification of Limited Exclusion Order and Cease and Desist Order; Termination of the Modification Proceeding as to U.S. Patent No. 6,377,577 and Suspension of the Modification Proceeding as to U.S. Patent No. 7,224,668

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to modify a limited exclusion order and a cease and desist order (''the remedial orders'') issued against Arista Networks, Inc. of Santa Clara, California (''Arista'') in Inv. No. 337–TA–945. The above-captioned

modification proceeding is terminated as to U.S. Patent No. 6,377,577 (''the '577 patent'') and is suspended as to U.S. Patent No. 7,224,668 (''the '668 patent'').

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 27, 2015, based on a Complaint filed by Cisco Systems, Inc. of San Jose, California (''Cisco''). 80 FR 4313–14 (Jan. 27, 2015). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), by reason of infringement of certain claims of U.S. Patent Nos. 7,023,853 (''the '853 patent''); the '577 patent; 7,460,492 (''the '492 patent''); 7,061,875 (''the '875 patent''); the '668 patent; and 8,051,211 (''the '211 patent''). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named Arista as the respondent. The Office of Unfair Import Investigations (''OUII'') was also named as a party to the investigation. The Commission terminated the investigation in part as to certain claims of the asserted patents. Notice (Nov. 18, 2015) (see Order No. 38 (Oct. 27, 2015)); Notice (Dec. 1, 2015) (see Order No. 47 (Nov. 9, 2015)).

On June 11, 2016, the Patent Trial and Appeal Board (''PTAB'') of the U.S. Patent and Trademark Office instituted separate *inter partes* review (''IPR'') proceedings concerning the '577 and '668 patents. *Arista Networks, Inc.* v. *Cisco Systems, Inc.,* Case IPR2016–00303 (regarding the '577 patent); *Arista Networks, Inc.* v. *Cisco Systems, Inc.,* Case IPR2016–00309 (regarding the '668 patent).

On May 4, 2017, the Commission found a violation of section 337 with respect to certain of the asserted claims of the '577 and '668 patents. Notice (May 4, 2017); 82 FR 21827–29 (May 10, 2017); *see also* Notice of Correction (May 30, 2017); 82 FR 25811 (June 5, 2017). The Commission issued a limited exclusion order (''LEO'') and a cease and desist order (''CDO'') against Arista. *Id.* The Commission did not find a violation with respect to the '853, '875, '492, and '211 patents. *Id.*

On May 25, 2017, the PTAB issued its final written decision finding claims 1, 7–10, 12–16, 18–22, 25, and 28–31 of the '577 patent unpatentable based on prior art not presented in the Commission investigation. On June 1, 2017, the PTAB issued its final written decision finding claims 1–10, 12, 13, 15–28, 30, 33–36, 55–64, 66, 67, and 69–72 of the '668 patent unpatentable based on certain combinations of prior art not presented in the Commission investigation.

On June 30, 2017, Cisco filed a notice of appeal with the United States Court of Appeals for the Federal Circuit (''Federal Circuit''), seeking review of the Commission's finding of no violation as to the '853, '875, '492, and '211 patents. *Cisco Sys., Inc.* v. *Int'l Trade Comm'n,* Appeal No. 17–2289. On July 21, 2017, Arista filed a notice of appeal with the Federal Circuit, seeking review of the Commission's finding of violation as to the '577 and '668 patents. *Arista Networks, Inc.* v. *Int'l Trade Comm'n,* Appeal No. 17–2336. On August 3, 2017, the Federal Circuit consolidated the Arista and Cisco appeals. *Cisco Sys., Inc.* v. *Int'l Trade Comm'n,* Appeal No. 17–2289, Dkt. No. 20. The consolidated appeal is currently pending before the Federal Circuit.

On August 25, 2017, Arista filed a motion with the Federal Circuit seeking to stay the Commission's remedial orders pending resolution of the appeal on the merits. On September 22, 2017, the Federal Circuit denied this request ''subject to the condition that the product redesign on which Cisco relies to deny irreparable harm must be permitted to enter the country, without being blocked by the Commission order under review in this case, unless and until Commission proceedings are initiated and completed to produce an enforceable determination that such a redesign is barred by the order here under review or by a new or amended order.'' *Cisco Sys, Inc.* v. *ITC; Arista Networks, Inc.* v. *ITC,* Appeal Nos. 2017–2289, –2351, Order at 3 (Fed. Cir. Sept. 22, 2017).

On September 27, 2017, Cisco petitioned for a modification proceeding to determine whether Arista's redesigned switches infringe the patent claims that are the subject of the LEO and CDO issued in this investigation and for modification of the remedial orders to specify the status of these redesigned products.

On November 1, 2017, the Commission instituted the modification proceeding. 82 FR 50678 (Nov. 1, 2017). On November 7, 2018, the Commission issued a notice clarifying that OUII is not named as a party in the modification proceeding. 82 FR 52318 (Nov. 13, 2017).

On February 14, 2018, the Federal Circuit summarily affirmed the PTAB's decision finding the claims of the '668 patent unpatentable. *Cisco Systems, Inc.* v. *Arista Networks, Inc.,* Appeal No. 17–2384, Order (Feb. 14, 2018). The Court issued the mandate on March 23, 2018. *Id.,* Dkt. No. 54.

On March 15, 2018, Arista filed a motion before the Commission to stay the Commission's remedial orders as to the '668 patent. On March 26, 2018, Cisco filed its response stating that it takes no position on Arista's motion.

On March 23, 2018, the ALJ issued a recommended determination in the modification proceeding (''MRD''), finding that Arista's redesigned products infringe the relevant claims of the '668 patent but do not infringe the relevant claims of the '577 patent. MRD (Mar. 23, 2018). Also on March 23, 2018, the ALJ issued an order denying Arista's motion to stay the modification proceedings or to stay the remedial orders with respect to the '668 patent. Order No. 20 (Mar. 23, 2018).

On April 5, 2018, the Commission determined to modify the remedial orders to suspend enforcement of those orders with respect to the '668 patent. Notice (Apr. 5, 2018); Comm'n Order (Apr. 5, 2018).

Also on April 5, 2018, Cisco filed comments to the MRD, requesting review of the ALJ's findings that Arista's redesigned products do not infringe the relevant claims of the '577 patent. On the same day, Arista filed comments to the MRD, requesting review of the ALJ's finding that its redesigned products infringe the relevant claims of the '668 patent and preserving certain alternative grounds of affirmance regarding the ALJ's finding that the redesigned products do not infringe the relevant claims of the '577 patent.

Further on April 5, 2018, Arista filed a motion to stay the modification proceeding as to the '668 patent based on the Federal Circuit's affirmance of the PTAB's determination that the

relevant claims of the '668 patent are unpatentable.

On April 12, 2018, Cisco and Arista filed responses to each other's comments.

On April 16, 2017, Cisco filed a response to Arista's stay motion.

Having examined the record of this modification proceeding, including the MRD, the comments to the MRD, and the responses thereto, the Commission has determined to find that Cisco has failed to show by a preponderance of the evidence that Arista's redesigned products infringe claims 1, 7, 9, 10, and 15 of the '577 patent or that Arista has indirectly infringed those claim by contributing to or inducing infringement by its customers. Accordingly, the Commission has determined to modify the remedial orders to exempt Arista's redesigned products that were the subject of this modification proceeding. The modification proceeding is terminated with respect to the '577 patent.

The Commission has also determined to suspend the modification proceeding with respect to the '668 patent and to deny Arisa's motion to stay the modification proceeding as to the '668 patent as moot in light of the Commission's prior suspension of the remedial orders with respect to the '668 patent.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 26, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–14130 Filed 6–29–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0079]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection; Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 31, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, either by mail 99 New York Ave. NE, Washington, DC 20226, or by email at *eipb-informationcollection@atf.gov,* or by telephone at 202–648–7158.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Individuals or households, and farms.

Abstract: This information collection requires specific transactions for licensee/permittees and holders of user permits. These requirements are outlined in 27 CFR part 555.103 in order to comply with the Safe Explosives Act.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50,000 respondents will respond once to this collection, and it will take each respondent approximately 30 minutes to complete each response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 25,000 hours, which is equal to 50,000 (total respondents) * 1 (# of response per respondent) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: June 27, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–14167 Filed 6–29–18; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. CRH plc, et al.: Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *CRH plc, et al.,* Civil Action No. 1:18–

cv–1473. On June 22, 2018, the United States filed a Complaint alleging that the proposed acquisition of the assets of Pounding Mill Quarry Corporation (''Pounding Mill'') by CRH plc and CRH Americas Materials, Inc. (collectively, ''CRH'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires that CRH divest the Pounding Mill quarry located in Rocky Gap, Virginia and related assets.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Defense, Industrials, and Aerospace Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8700, Washington, DC 20530 (telephone: (202) 307–0924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8700, Washington, D.C. 20530, Plaintiff, v. *CRH PLC, Belgard Castle, Dublin, Ireland 22, CRH Americas Materials, Inc., 900 Ashwood Parkway, Suite 600, Atlanta, Georgia 30338,* and *Pounding Mill Quarry Corporation, 171 Saint Clair Crossing, Bluefield, Virginia 24605,* Defandants.

No. 18–cv–1473
Judge Dabney L. Friedrich

COMPLAINT

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against defendants CRH plc (''CRH''), CRH Americas Materials, Inc. (''CRH Americas''), and Pounding Mill Quarry Corporation (''Pounding Mill'') to enjoin CRH Americas' proposed acquisition of Pounding Mill's assets. If defendants are permitted to consummate this acquisition, it would substantially lessen competition for the supply of aggregate and asphalt concrete in southern West Virginia. The United States alleges as follows:

I. INTRODUCTION

1. CRH Americas' acquisition of Pounding Mill's aggregate quarries would secure CRH Americas' control over the supply of materials necessary to build and maintain roads and bridges in southern West Virginia. Aggregate and asphalt concrete are the primary materials used to build, pave, and repair roads. Aggregate is an essential input in asphalt concrete, which is used to pave roads, and is also needed for other parts of road construction, such as the base layer of rock that provides a foundation for paved roads. CRH Americas currently supplies both aggregate and asphalt concrete in southern West Virginia and already holds significant shares in each market.

2. The proposed acquisition would result in CRH Americas owning nearly all of the aggregate quarries that supply southern West Virginia. CRH Americas and Pounding Mill are the primary suppliers of aggregate for West Virginia Department of Transportation (''WVDOT'') projects in that area, together supplying well over 80 percent of the aggregate purchased directly by WVDOT or purchased by contractors for use in WVDOT projects. The proposed acquisition would eliminate the head-to-head competition between CRH Americas and Pounding Mill. As a result, prices for aggregate used for road construction would likely increase significantly if the acquisition is consummated.

3. CRH Americas' acquisition of Pounding Mill's quarries also would strengthen the virtual monopoly CRH Americas currently holds over the supply of asphalt concrete in southern West Virginia. In that market, CRH Americas competes with only one small new entrant, which has a small market share, but is poised to grow. That firm currently procures aggregate from Pounding Mill which, unlike CRH Americas, has no presence in the asphalt-concrete market. There are no alternative aggregate suppliers to which that asphalt-concrete competitor can economically turn. The merger would give CRH Americas the means and incentive to disadvantage or exclude its asphalt-concrete competitor by denying it access to aggregate, reliable delivery, and competitive prices. Without access to a reliable source of aggregate, any future asphalt-concrete suppliers would be barred from entering the southern West Virginia market.

4. The state of West Virginia spends hundreds of millions of dollars on new construction and road maintenance projects each year. With approximately 36,000 miles of state-maintained roads, West Virginia boasts the sixth largest state-maintained road system in the United States. Without competing suppliers for the necessary inputs for road construction and other infrastructure projects, the state of West Virginia and federal and state taxpayers would pay the price for CRH Americas' control over these important markets. In light of these market conditions, CRH Americas' acquisition of Pounding Mill's quarries would cause significant anticompetitive effects in the markets for aggregate and asphalt concrete used for WVDOT road projects in southern West Virginia. Therefore, the proposed acquisition violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

II. DEFENDANTS AND THE PROPOSED TRANSACTION

5. Defendant CRH, a corporation headquartered in Ireland, is a global supplier of building materials. In the United States, CRH, through its vast network of subsidiaries, is a leader in the supply of aggregate, asphalt concrete, and ready mix concrete, among numerous other things, conducting business in 44 states, and employing 18,500 people at close to 1,200 operating locations across the country. In 2015, CRH had global sales of approximately $26 billion, with sales in the United States of approximately $14 billion.

6. Defendant CRH Americas is incorporated in Delaware. CRH Americas' principal place of business is in Atlanta, Georgia, and the headquarters of its Mid-Atlantic Division is in Dunbar, West Virginia. CRH Americas is a subsidiary (through its parent CRH Americas, Inc.) of CRH plc. CRH Americas is one of the largest suppliers of aggregate, asphalt concrete, ready mix concrete, and construction and paving services in the United States. CRH Americas has a large network of subsidiaries in the United States that operate in different localities. For example, West Virginia Paving, Inc. is a subsidiary of CRH Americas. West Virginia Paving, Inc. is a highway grading and paving contractor throughout West Virginia.

7. Defendant Pounding Mill is a Delaware corporation headquartered in Bluefield, Virginia. Pounding Mill owns and operates four quarries—three in Virginia and one in West Virginia—from which it supplies aggregate. In 2015,

Pounding Mill had sales of approximately $44 million.

8. In June of 2014, CRH Americas and Pounding Mill signed a letter of intent pursuant to which CRH Americas agreed to purchase Pounding Mill. The primary assets to be acquired are Pounding Mill's four quarries, including the real property associated with those quarries, and the equipment used to operate the quarries. The parties entered into a purchase agreement in March 2018.

III. JURISDICTION AND VENUE

9. The United States brings this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

10. Defendants produce and sell aggregate, asphalt concrete, paving services, and other products in the flow of interstate commerce. Defendants' activity in the sale of aggregate and other products substantially affects interstate commerce. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

11. Defendants have consented to personal jurisdiction and venue in the District of Columbia. Venue, therefore, is proper under Section 12 of the Clayton Act, 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

IV. RELEVANT MARKETS

A. Relevant Product Markets

1. WVDOT Aggregate

12. Aggregate is particulate material that primarily includes crushed stone, sand, and gravel. It is produced at mines, quarries, and gravel pits and is used for a variety of construction projects. Aggregate generally can be categorized based on size into fine aggregate and coarse aggregate. Within the categories of fine and coarse aggregate, aggregate is further identified based on the size of the aggregate and the type of rock that it is. Aggregate can also differ based on hardness, durability, and polish value, among other characteristics.

13. The various sizes and types of aggregate are distinct and often used for different purposes. For example, the aggregate that is used as a road base may be different than the aggregate that is mixed into asphalt concrete.

14. Aggregate is an essential component of road construction projects, such as building or repairing roads. Aggregate is used in road projects as a base that is laid and compacted under the asphalt concrete. Aggregate also is an essential ingredient in asphalt concrete, which is used for paving roads and other areas. There are no substitutes for aggregate in these types of road construction projects because no other material can be used for the same purpose.

15. To evaluate the proposed acquisition's effects on the market for aggregate, it is appropriate to include all sizes and kinds of aggregate because, with limited exceptions, each size and type of aggregate is offered under similar competitive conditions in the relevant geographic market. Thus, the grouping of the various sizes and types of aggregate makes evaluating competitive effects more efficient without undermining the reliability of the analysis. One exception to this aggregation is ''friction- course'' aggregate, which is a specialized variety used exclusively to create the anti-skid surface layer of roads. Pounding Mill does not have the ability to manufacture friction- coarse aggregate and the competitive conditions for that product are not similar to the remaining aggregate market.

16. Because different types, sizes, and qualities of aggregate are needed depending on the intended use, the end-use customer establishes the exact specifications that the aggregate must meet for each application. These specifications are designed by the project engineers to ensure the safety and longevity of road construction projects.

17. WVDOT purchases significant quantities of aggregate for its road construction projects, which include building, repairing, and maintaining roads and bridges in West Virginia. For these projects, aggregate is needed as an input into the asphalt concrete that is used to pave the roads. Aggregate is also necessary for other parts of the road or bridge, such as road base. WVDOT also purchases significant quantities of aggregate for its maintenance yards. These maintenance yards are used to store the aggregate purchased directly by WVDOT for use on the projects WVDOT completes itself, instead of through a contractor, such as fixing a pothole or repaving a small area of a road.

18. For each road project, WVDOT provides the precise specifications for the aggregate used for asphalt concrete and road base, among other things. For example, particular types of aggregate are used to strengthen the asphalt and ensure that the road remains stable. WVDOT specifications are designed to ensure that the roads and bridges are built safely and withstand heavy usage over time. WVDOT tests the aggregate used in its projects to ensure that it meets specifications. The use of aggregate that does not meet WVDOT specifications could compromise the safety of roads or bridges, or cause the need for repairs sooner than would otherwise be required. Therefore, aggregate that does not meet WVDOT specifications cannot be used.

19. A small but significant increase in the price of aggregate that meets WVDOT specifications (hereinafter ''WVDOT aggregate'') would not cause WVDOT to substitute other types of materials in sufficient quantities, or to utilize aggregate that does not meet its specifications, with sufficient frequency so as to make such a price increase unprofitable. Accordingly, WVDOT aggregate is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

2. WVDOT Asphalt Concrete

20. Asphalt concrete is a composite material that is used to surface roads, parking lots, and airport tarmacs, among other things. Asphalt concrete consists of aggregate combined with liquid asphalt and other materials. After it is mixed, the asphalt concrete is laid in several layers and compacted. Asphalt concrete has unique performance characteristics compared to other building materials, such as ready mix concrete. For example, asphalt concrete is the desired material used to build roadways because it has optimal surface durability and friction, resulting in low tire wear, high breaking efficiency, and low roadway noise. Other products generally cannot be used as economically to build and maintain roadways and therefore are not adequate substitutes. Ready mix concrete in particular is significantly more expensive for paving roadways than asphalt concrete and takes significantly longer to set, delaying the use of the road. Only in limited circumstances can ready mix concrete be used to build new roads. In addition, ready mix concrete cannot be used for repairing asphalt-concrete roads.

21. WVDOT purchases significant quantities of asphalt concrete for road construction and maintenance projects within the State of West Virginia. For each road project, WVDOT provides the precise specifications for the asphalt concrete. WVDOT specifications are designed to ensure that the roads are built safely and withstand heavy usage over time. WVDOT tests the asphalt concrete used in its projects to ensure that it meets WVDOT specifications. Using asphalt concrete that does not meet WVDOT specifications could

compromise the safety of the road or cause the need for repairs sooner than would otherwise be required. Therefore, asphalt concrete that does not meet WVDOT specifications cannot be used.

22. A small but significant increase in the price of asphalt concrete that meets WVDOT specifications (hereinafter ''WVDOT asphalt concrete'') would not cause WVDOT to substitute other materials in sufficient quantities, or to utilize asphalt concrete that does not meet its specifications, with sufficient frequency so as to make such a price increase unprofitable. Accordingly, WVDOT asphalt concrete is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

B. Geographic Markets

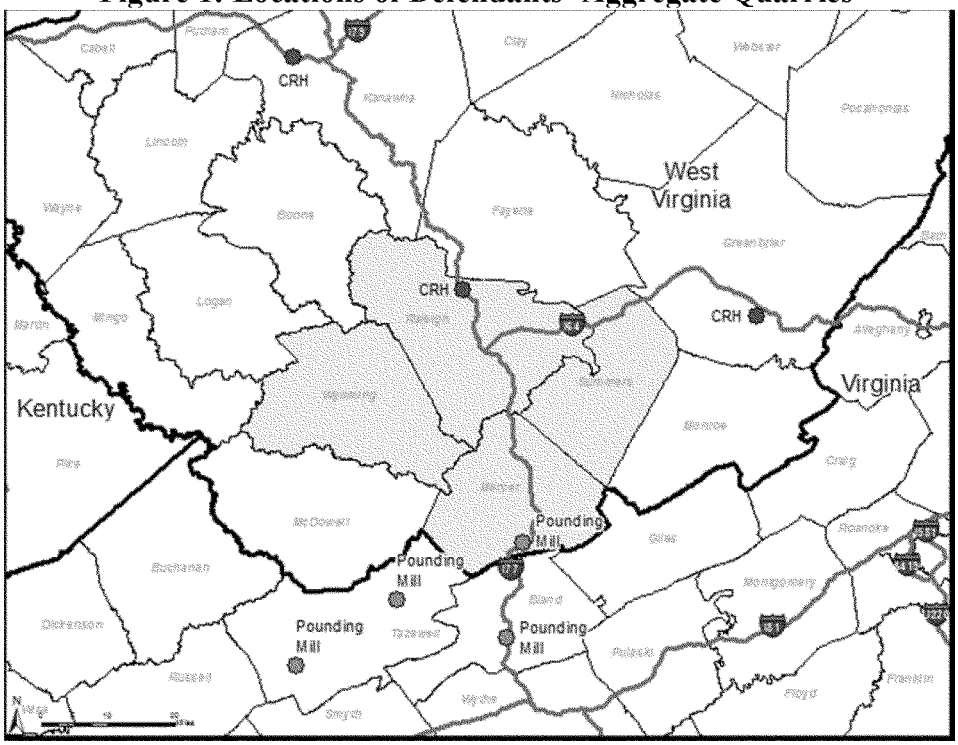
1. WVDOT Aggregate

23. Aggregate is a relatively low-cost product that is bulky and heavy, with high transportation costs. The geographic area an aggregate supplier can profitably serve is primarily determined by: (1) the distance from the quarry to the job site where the aggregate is used; and (2) the relative distance between the supplier's competitor's quarry and the job site compared to its own. Suppliers know the importance of transportation costs to a customer's selection of an aggregate supplier and also know the locations of all their competitors. An aggregate supplier can often charge a lower/more competitive price than its competitor if its quarry is closer to the customer's location than its competitor's quarry.

24. CRH Americas owns and operates aggregate quarries located in Beckley and Lewisburg, West Virginia. Those quarries sell WVDOT aggregate to customers with plant locations or job sites in the following four counties in West Virginia: Wyoming, Raleigh, Mercer, and Summers (these four counties are hereinafter referred to as ''Southern West Virginia''). Customers with plant locations or job sites within Southern West Virginia may also economically procure WVDOT aggregate from Pounding Mill's quarries located in Princeton, West Virginia and Rocky Gap, Virginia, and from another smaller third-party quarry located in Lewisburg, West Virginia. For many customer locations in Southern West Virginia, quarries owned by CRH Americas and Pounding Mill are the two closest options and can quote different prices based on the location of a customer in relation to each supplier's quarries.

25. Figure 1 below shows the locations of CRH Americas' and Pounding Mill's aggregate quarries in and near Southern West Virginia.

Figure 1: Locations of Defendants' Aggregate Quarries



26. A small but significant post-acquisition increase in the price of WVDOT aggregate to customers with plants or job sites in Southern West Virginia would not cause those customers to substitute another product or procure aggregate from suppliers other than CRH Americas, Pounding Mill, and the third competitor in sufficient quantities so as to make such a price increase unprofitable. Accordingly, Southern West Virginia is a relevant geographic market for WVDOT aggregate within the meaning of Section 7 of the Clayton Act.

2. WVDOT Asphalt Concrete

27. As with aggregate, the geographic area an asphalt-concrete plant can profitably serve is primarily determined by the location of its plant in relation to the job site and the relative location of competing suppliers. Asphalt-concrete suppliers typically deliver asphalt concrete to a job site.

28. Distance from the plant to the job site is important for two reasons—temperature and transportation costs. First, asphalt concrete must be maintained at a certain temperature range before it is poured. If the temperature drops below that required by the asphalt-concrete specifications, it cannot be used. The temperature of asphalt concrete drops as it travels from

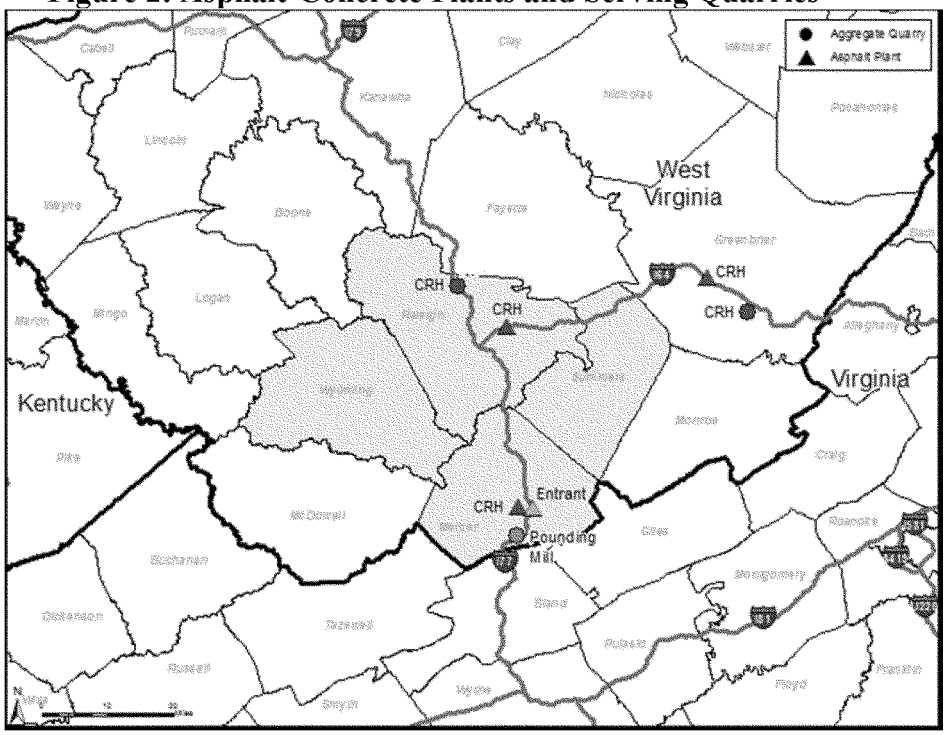
the plant and drops faster in colder weather than in warmer weather. As a result, the distance between an asphalt-concrete plant and the project site determines whether a plant can service a particular geographic area. Second, asphalt concrete is heavy and as a result transporting it is expensive. Therefore, the distance between the site where the asphalt concrete is poured and the asphalt-concrete plant drives the transportation costs and has a considerable impact on the area a supplier can profitably serve.

29. A further factor that determines the area a supplier can profitably serve is the location of its plant in relation to the location of competing plants. Suppliers know the importance of transportation costs to a customer's selection of a supplier and also generally know how far each competing supplier can deliver asphalt concrete. An asphalt-concrete supplier often can charge a lower/more competitive price than its competitor if its plant is closer to the customer's location than its competitor's plant.

30. CRH Americas has an advantage with respect to transportation costs because it owns several asphalt-concrete plants in Southern West Virginia. CRH Americas owns and operates three of the four asphalt-concrete plants that supply WVDOT asphalt concrete and serve customers in Southern West Virginia. Customers with job sites in Southern West Virginia may also economically procure WVDOT asphalt concrete from CRH Americas' sole asphalt-concrete competitor, which operates one asphalt-concrete plant in Mercer County. Pounding Mill does not own any asphalt- concrete plants, though it is currently supplying CRH Americas' competitor in the production of asphalt concrete with the aggregate it needs to compete. Thus, the four asphalt-concrete plants that serve Southern West Virginia procure aggregate from CRH Americas and Pounding Mill.

31. Figure 2 below shows the locations of the four asphalt-concrete plants in Southern West Virginia and the location of the aggregate quarries that supply those plants.

Figure 2: Asphalt-Concrete Plants and Serving Quarries



32. A small but significant post-acquisition increase in the price of WVDOT asphalt concrete to customers with job sites in Southern West Virginia would not cause those customers to substitute another product or procure WVDOT asphalt concrete from suppliers other than CRH Americas or its rival in sufficient quantities so as to make such a price increase unprofitable. Accordingly, Southern West Virginia constitutes a relevant geographic market for WVDOT asphalt concrete within the meaning of Section 7 of the Clayton Act.

V. ANTICOMPETITIVE EFFECTS OF CRH AMERICAS' ACQUISITION OF POUNDING MILL

A. Anticompetitive Effects in the Market for WVDOT Aggregate

33. If CRH Americas acquired Pounding Mill, competition would be substantially lessened for the supply of WVDOT aggregate in Southern West Virginia. This market is already highly concentrated and would become significantly more concentrated as a result of CRH Americas' acquisition of Pounding Mill's quarries.

34. For all WVDOT aggregate supplied in Southern West Virginia, including aggregate supplied to WVDOT through contractors for road projects and aggregate purchased directly by WVDOT for its maintenance yards, CRH Americas and Pounding Mill's combined market share is well over 80 percent. Moreover, the companies' combined share is even higher—over 90 percent—for the aggregate supplied by contractors for use in road projects.

35. Acquisitions that reduce the number of competitors in already concentrated markets are more likely to substantially lessen competition. Concentration can be measured in various ways, including by market shares and by the widely-used Herfindahl-Hirschman Index (''HHI'').

Under the *Horizontal Merger Guidelines,* post- acquisition HHIs above 2,500 and changes in HHI above 200 trigger a presumption that a proposed acquisition is likely to enhance market power and substantially lessen competition in a defined market.

36. Premerger, the HHI for aggregate supplied for WVDOT road projects is approximately 4,350. The post-acquisition HHI is approximately 8,500, with an increase of over 4,000. For WVDOT aggregate purchased by WVDOT for its maintenance yards, the premerger HHI is approximately 3,800. Post-acquisition, the HHI is approximately 6,700, with an increase of nearly 3,000. Given the extraordinarily high pre- and post-acquisition concentration levels in the relevant markets described above, CRH Americas' proposed acquisition of Pounding Mill presumptively violates Section 7 of the Clayton Act.

37. CRH Americas and Pounding Mill compete vigorously in the market for WVDOT aggregate in Southern West Virginia. For many customers and job sites in that area, they are the first- and second-best sources of supply for aggregate in terms of price, quality, and reliability of delivery.

38. Only one other company, located in Lewisberg, West Virginia, is able to supply WVDOT aggregate in Southern West Virginia in any meaningful quantity. But while this competitor supplies WVDOT aggregate to maintenance yards, it has not bid on many road projects, leaving only CRH Americas and Pounding Mill to compete for many of those large projects.

39. While a few other small suppliers provide limited quantities of WVDOT aggregate for maintenance yards in Southern West Virginia, they are unable to provide the large quantity of aggregate needed on road projects and do not supply the types or quality of aggregate needed for the asphalt concrete and road base. For example, the quarries located to the south and west of Pounding Mill's quarries are too far from Southern West Virginia to effectively compete in the relevant market and, as a result, have a small share in that market and almost no influence on price.

40. The proposed acquisition would substantially increase the likelihood that CRH Americas would unilaterally increase the price of WVDOT aggregate to customers in Southern West Virginia. Without the constraint of competition between CRH Americas and Pounding Mill, the combined firm would have a greater ability to exercise market power by raising prices to customers for whom CRH Americas and Pounding Mill were the two best sources of WVDOT aggregate.

41. Therefore, the proposed acquisition would substantially lessen competition in the market for WVDOT aggregate in Southern West Virginia. This is likely to lead to higher prices for the ultimate consumers of such aggregate, in violation of Section 7 of the Clayton Act.

B. Anticompetitive Effects in the Market for WVDOT Asphalt Concrete

42. CRH Americas' acquisition of Pounding Mill would substantially lessen competition in the market for WVDOT asphalt concrete in Southern West Virginia. CRH Americas has historically dominated this market. Pounding Mill does not compete directly with CRH Americas in the asphalt-concrete market, but it is a supplier of aggregate to CRH Americas' only competitor. That competitor, a recent entrant, has begun making inroads in the WVDOT asphalt-concrete market, and eroding CRH Americas' dominant position. By building its asphalt-concrete plant close to Pounding Mill's quarry in Mercer County, this entrant attempted to ensure that it would have a reliable, nearby source of aggregate, which allowed it to charge competitive prices. Pounding Mill is uniquely positioned to provide asphalt-concrete producers such as this entrant with competitively-priced aggregate, because it is not itself vertically integrated, and so has no incentive to raise the costs or otherwise disadvantage other asphalt- concrete producers.

43. If the proposed acquisition were consummated, this entrant could no longer be assured an economical source of WVDOT aggregate. Post-merger, CRH Americas would have the ability and incentive to use its ownership of Pounding Mill's quarries to disadvantage its rival by either withholding WVDOT aggregate or supplying it at less favorable terms than Pounding Mill currently provides.

44. Any post-merger conduct by CRH Americas that cuts off the supply of WVDOT aggregate or raises the cost of that input, would weaken its asphalt-concrete rival's ability to compete on price. If CRH Americas' rival cannot win WVDOT contracts, it may find it impossible to stay in business, thereby ensuring CRH Americas' control over the entire market for WVDOT asphalt concrete in Southern West Virginia.

45. Post-acquisition, CRH Americas would have the incentive and ability to raise the price or sacrifice sales of WVDOT aggregate in order to maintain its dominance in the asphalt-concrete market. Such a strategy would be attractive in part because the sale of asphalt concrete is significantly more profitable than the sale of aggregate. Therefore, if CRH Americas were able to gain additional asphalt-concrete sales by raising the price of aggregate to its rival, foreclosing supply, or delaying deliveries, the additional asphalt-concrete sales would be considerably more profitable to CRH Americas than any lost aggregate sales.

46. By raising the costs of its sole competitor in the provision of WVDOT asphalt concrete, CRH Americas likely would gain the ability to unilaterally raise the price of WVDOT asphalt concrete in Southern West Virginia.

47. Therefore, the acquisition of Pounding Mill's quarries would give CRH Americas the incentive and ability to either eliminate or raise the costs of its sole asphalt- concrete competitor. As a result, the acquisition would substantially lessen competition in the market for WVDOT asphalt concrete in Southern West Virginia in violation of Section 7 of the Clayton Act.

VI. ENTRY WILL NOT CONSTRAIN CRH AMERICAS' MARKET POWER IN THE RELEVANT MARKETS

48. Entry into the market for WVDOT aggregate in Southern West Virginia is unlikely to be timely, likely, and sufficient to constrain CRH Americas' market power post-merger given the substantial time and cost required to open a quarry. Entry is likely to take two years or more. First, securing the proper site for a quarry is difficult and time-consuming. There are few sites on which to locate coarse aggregate operations in or near Southern West Virginia. Finding land with the correct rock composition requires extensive investigation and testing of candidate sites, as well as the negotiation of necessary land transfers, leases, and/or easements. Further, the location of a quarry close to likely job sites is extremely important due to the high cost of transporting aggregate. Once a location is chosen, obtaining the necessary permits is difficult and time-consuming. Attempts to open a new quarry often face fierce public opposition, which can prevent a quarry from opening or make opening it much more time-consuming and costly. Finally, even after a site is acquired and permitted, the owner must spend significant time and resources to prepare the land and purchase and install the necessary equipment.

49. Moreover, once a quarry is operating, a supplier must demonstrate that its aggregate meets WVDOT specifications. WVDOT qualification

requires testing. Until the aggregate can meet these specifications, it cannot be used to supply WVDOT road construction projects.

50. Entry into the market for WVDOT asphalt concrete in Southern West Virginia also is unlikely to be timely, likely, and sufficient to constrain CRH Americas' post-merger market power. Potential entrants in WVDOT asphalt concrete must have access to WVDOT aggregate. Only CRH Americas and one other competitor would be available to supply WVDOT aggregate in Southern West Virginia and, for many locations in Southern West Virginia, the remaining competitor would not be an economical alternative.

51. Post-acquisition, CRH Americas would have the incentive and opportunity to foreclose its competitors' access to WVDOT aggregate or disadvantage its rivals by either withholding WVDOT aggregate or supplying it on less favorable terms. Lack of access to a reliable, independent supply of aggregate would deter or prevent timely or sufficient entry into the asphalt-concrete market in Southern West Virginia.

52. In addition, an entrant into the asphalt-concrete market would have to purchase appropriate land close to an aggregate quarry, build a plant, procure the necessary land-use and environmental permits, and obtain WVDOT approval of each asphalt-concrete mix made, among other things. These actions involve significant costs and often lengthy time periods.

VII. THE ACQUISITION VIOLATES SECTION 7 OF THE CLAYTON ACT

53. If allowed to proceed, CRH Americas' proposed acquisition of Pounding Mill is likely to substantially lessen competition in the markets for WVDOT aggregate in Southern West Virginia and WVDOT asphalt concrete in Southern West Virginia in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

54. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects, among others:

(a) actual and potential competition between CRH Americas and Pounding Mill in the market for WVDOT aggregate in Southern West Virginia would be eliminated;

(b) the sole remaining competitor for WVDOT asphalt concrete would lose its aggregate supplier or be forced to pay significantly higher prices for aggregate, substantially reducing price competition in the market for WVDOT asphalt concrete;

(c) prices for WVDOT aggregate in Southern West Virginia likely would increase and customer service likely would decrease; and

(d) prices for WVDOT asphalt concrete in Southern West Virginia likely would increase and customer service likely would decrease.

VIII. REQUESTED RELIEF

55. The United States requests that this Court:

(a) adjudge and decree that CRH Americas' acquisition of Pounding Mill's assets would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) preliminarily and permanently enjoin and restrain defendants and all persons acting on their behalf from consummating the proposed acquisition of Pounding Mill or its assets by CRH Americas, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine CRH Americas with Pounding Mill;

(c) award the United States its costs for this action; and

(d) award the United States such other and further relief as the Court deems just and proper.

Dated: June 22, 2018

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *CRH PLC, CRH Americas Materials, Inc.,* and *Pounding Mill Quarry Corporation,* Defendants.

No. 18–cv–1473
Judge Dabney L. Friedrich

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed its Complaint on June 22, 2018, the United States and defendants, CRH plc, CRH Americas Materials, Inc., and Pounding Mill Quarry Corporation, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. *JURISDICTION*

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18, as amended.

II. *DEFINITIONS*

As used in this Final Judgment:

A. ''Acquirer'' means Salem Stone or another entity to which defendants divest the Divestiture Assets.

B. ''CRH'' means defendant CRH plc, an Irish public limited company with its headquarters in Dublin, Ireland, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''CRH Americas'' means defendant CRH Americas Materials, Inc., a Delaware corporation with its principal place of business in Atlanta, Georgia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Pounding Mill'' means defendant Pounding Mill Quarry Corporation, a Virginia corporation with its headquarters in Bluefield, Virginia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''Salem Stone'' means Salem Stone Corporation, a Virginia corporation with its headquarters in Dublin, Virginia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

F. ''Closing'' means the closing of the transaction between CRH Americas and Pounding Mill pursuant to which CRH Americas acquires the assets of Pounding Mill.

G. ''Divestiture Assets'' means all assets associated with or utilized by Pounding Mill's Rocky Gap quarry, including, but not limited to:

1. All real property, including:

(a) All real property that is subject to the deed of record dated December 14, 1991, and registered in Bland County, Virginia in Deed Book 134, Page 138, less and except the right of way of the Norfolk and Western Railway as described in the deed recorded in Deed Book 20, Page 586; and those properties described in deeds recorded in Deed Book 21, Page 77; Deed Book 31, Page 478; Deed Book 32, Page 388; and Deed Book 53, Page 220;

(b) All real property that is subject to the deed of record dated July 8, 1989, and registered in Bland County, Virginia in Deed Book 99, Page 626, except the property described in the deed recorded in Deed Book 34, Page 295; and

(c) All real property that is subject to the deed of record dated February 8, 2017, and registered in Bland County, Virginia under Instrument Number 170000077, except those properties described in deeds recorded in Deed Book 53, Page 334; Deed Book 53, Page 360; Deed Book 57, Page 138; Deed Book 59, Page 96; Deed Book 59, Page 98; Deed Book 61, Page 397; Deed Book 62, Page 171; Deed Book 60, Page 653; and Deed Book 62, Page 168.

2. All tangible assets that have been primarily used at or in connection with the Rocky Gap quarry at any time since July 31, 2016, including, but not limited to: all equipment, vehicles, and buildings; tooling and fixed assets, personal property, inventory, office furniture, materials, and supplies; geologic maps, core drillings, and core samples; aggregate reserve testing information, results, and analyses; research and development activities; licenses, permits, and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including, but not limited to, all contracts that have been fulfilled in part or in whole with aggregate produced at the Rocky Gap quarry; customer lists, accounts, and credit records; repair and performance records, records relating to testing or approvals by the West Virginia Department of Transportation or Virginia Department of Transportation, and all other records;

3. All intangible assets that have been primarily used at or in connection with the Rocky Gap quarry at any time since July 31, 2016, including, but not limited to, all patents, licenses, sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures, research data concerning historic and current research and development, quality assurance and control procedures, design tools and simulation capability, and manuals and technical information defendants provide to their own employees, customers, suppliers, agents, or licensees.

III. *APPLICABILITY*

A. This Final Judgment applies to CRH, CRH Americas, and Pounding Mill, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. *DIVESTITURE*

A. CRH and CRH Americas are ordered and directed, within ten (10) business days after the Court signs the Hold Separate Stipulation and Order in this matter to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, defendants shall offer to furnish to the Acquirer, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. At the option of the Acquirer, defendants shall provide the Acquirer and the United States information relating to the personnel involved in the production and sale of aggregate and asphalt concrete at defendants' locations in: (1) the following counties in West Virginia: Boone, Clay, Fayette, Greenbrier, Logan, McDowell, Mercer, Mingo, Monroe, Nicholas, Raleigh, Summers, and Wyoming; and (2) the following counties in Virginia: Bland, Buchanan, Giles, Russell, and Tazewell, to enable the Acquirer to make offers of employment. Defendants shall not interfere with any negotiations by the Acquirer to employ any employee of CRH, CRH Americas, or Pounding Mill at any of the defendants' operations located in the counties listed in this paragraph. Defendants shall waive all non-compete agreements for any employee who elects employment with the Acquirer.

D. Prior to Closing Pounding Mill shall, and after Closing CRH and CRH Americas shall, permit prospective Acquirers of the Divestiture Assets to

have reasonable access to personnel and to make inspections of the physical facilities of the Rocky Gap quarry; access to any and all environmental, zoning, and other permit documents and information; access to any aggregate reserve estimates and geological studies; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Pounding Mill shall ensure that each asset is operational on the date of Closing and that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset as of the date of Closing.

F. CRH and CRH Americas shall warrant to the Acquirer that each asset will be operational on the date of sale of the Divestiture Assets and that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset on the date of sale of the Divestiture Assets.

G. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

H. Defendants shall not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture, whether pursuant to Section IV or V of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business involved in the production and sale of aggregate. The divestiture, whether pursuant to Section IV or V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the production and sale of aggregate; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer and CRH give CRH the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

J. Within ten (10) calendar days of the date of sale of the Divestiture Assets to the Acquirer, CRH shall provide a notification of the divestiture to all customers that purchased: (1) 500 tons or more of aggregate per project from CRH Americas' Alta quarry, CRH Americas' Beckley quarry, or any Pounding Mill quarry since January 1, 2016; or (2) 2,000 tons of aggregate or more per project from CRH Americas' Alta quarry, CRH Americas' Beckley quarry, or any Pounding Mill quarry since January 1, 2014. The notification must be in a form approved by the United States, in its sole discretion, and shall state that the Divestiture Assets are now owned by the Acquirer, are not affiliated with CRH, CRH Americas, or Pounding Mill, and shall include with such notice a copy of this proposed Final Judgment. CRH shall provide the United States with a copy of its draft notice no fewer than five (5) calendar days before it is sent to customers.

V. *APPOINTMENT OF DIVESTITURE TRUSTEE*

A. If CRH and CRH Americas have not divested the Divestiture Assets within the time period specified in Paragraph IV(A), they shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of CRH and CRH Americas any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of CRH and CRH Americas pursuant to a written agreement, on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to CRH and CRH Americas and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and CRH and CRH Americas are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to CRH, CRH Americas, and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the

Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth: (1) the Divestiture Trustee's efforts to accomplish the required divestiture; (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such report contains information that the Divestiture Trustee deems confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. *NOTICE OF PROPOSED DIVESTITURE*

A. Within two (2) business days following execution of a definitive divestiture agreement, CRH and CRH Americas or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to CRH and CRH Americas and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or V shall not be consummated. Upon objection by defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. *FINANCING*

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. *HOLD SEPARATE*

Until the divestiture required by this Final Judgment has been accomplished, CRH and CRH Americas shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Prior to the Closing, Pounding Mill shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. *AFFIDAVITS*

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, defendants shall deliver to the United States an affidavit signed by each defendant's Chief Financial Officer and General Counsel, which shall describe the fact and manner of defendants' compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. *COMPLIANCE INSPECTION*

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, Antitrust Division, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. *NOTIFICATION*

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the ''HSR Act''), CRH and CRH Americas, without providing advance notification to the United States Department of Justice, Antitrust Division, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any businesses involved in the production and/or sale of aggregate and/or asphalt concrete in the counties listed in Paragraph IV(C) during the term of this Final Judgment.

Such notification shall be provided to the United States Department of Justice, Antitrust Division in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 8 of the instructions must be provided only for aggregate and/or asphalt concrete. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the United States Department of Justice, Antitrust Division make a written request for additional information, defendants shall not consummate the proposed transaction or agreement until thirty calendar days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XII. *NO REACQUISITION*

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIII. *RETENTION OF JURISDICTION*

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. *ENFORCEMENT OF FINAL JUDGMENT*

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including its right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and they waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that defendants have violated this Final Judgment, the United States may apply to the Court for a one- time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgement against a defendant, whether litigated or resolved prior to litigation, that defendant agrees to reimburse the United States for any attorneys' fees, experts' fees, and costs incurred in connection with that enforcement effort,

including the investigation of the potential violation.

XV. *EXPIRATION OF FINAL JUDGMENT*

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry, except that after five (5) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and defendants that the divestiture has been completed and that the continuation of the Final Judgment no longer is necessary or in the public interest.

XVI. *PUBLIC INTEREST DETERMINATION*

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval is subject to procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

_____

United States District Judge

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *CRH PLC, CRH Americas Material, Inc.,* and *Pounding Mill Quarry Corporation,* Defendants.

No. 18–cv–01473
Judge Dabney L. Friedrich

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendants CRH plc (''CRH''), CRH Americas Materials, Inc. (''CRH Americas''), and Pounding Mill Quarry Corporation (''Pounding Mill'') entered into a purchase agreement, dated March 26, 2018, pursuant to which CRH Americas would acquire the assets of Pounding Mill, including four of Pounding Mill's aggregate quarries located in West Virginia and Virginia. The United States filed a civil antitrust Complaint on June 22, 2018, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially in the markets for aggregate and asphalt concrete that are used in West Virginia Department of Transportation (''WVDOT'') road projects in southern West Virginia. This loss of competition likely would result in increased prices and decreased service in these markets. Therefore, the Complaint alleges that the proposed acquisition violates Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

CRH Americas' acquisition of Pounding Mill's aggregate quarries would secure CRH Americas' control over the materials necessary to build and maintain roads and bridges in southern West Virginia. CRH Americas supplies aggregate and asphalt concrete in this area and holds significant shares in each market. The proposed acquisition would result in CRH Americas owning nearly all of the aggregate quarries that supply southern West Virginia and would eliminate the head to head competition between CRH Americas and Pounding Mill for the supply of aggregate. As a result, prices for aggregate likely would increase significantly if the acquisition was consummated. The acquisition also would strengthen the virtual monopoly CRH Americas holds over the supply of asphalt concrete in southern West Virginia. In that market, CRH Americas competes with only one small new entrant that procures aggregate from Pounding Mill. There are no alternative aggregate suppliers to which that competitor can economically turn. The merger would give CRH Americas the means and incentive to disadvantage or exclude its competitor by denying it access to aggregate, reliable delivery, and competitive prices.

Along with the Complaint, the United States filed a Hold Separate Stipulation and Order (''Hold Separate'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, explained more fully below, CRH Americas is required to divest Pounding Mill's Rocky Gap quarry located in Rocky Gap, Virginia (hereinafter, ''Rocky Gap'' or the ''Rocky Gap Quarry'') and related assets to Salem Stone Corporation (''Salem''). Under the terms of the Hold Separate, CRH Americas will take certain steps to ensure that Rocky Gap is operated as a competitively independent, economically viable, and ongoing business concern that will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. Defendants and the Proposed Transaction

Defendant CRH is headquartered in Ireland and is a global supplier of building materials. In the United States, CRH is a leader in the supply of aggregate, asphalt concrete, and ready mix concrete, among many other things. In 2015, CRH had global sales of approximately $26 billion and sales in the United States of approximately $14 billion. Defendant CRH Americas (through its parent CRH Americas, Inc.) is a subsidiary of CRH plc. CRH Americas is incorporated in Delaware and has a principal place of business in Atlanta, Georgia. CRH Americas is one of the largest suppliers of aggregate, asphalt concrete, ready mix concrete, and construction and paving services in the United States.

Defendant Pounding Mill is incorporated in Delaware and has its headquarters in Virginia. Pounding Mill owns and operates four aggregate quarries—three in Virginia and one in West Virginia. In 2015, Pounding Mill had sales of approximately $44 million.

On March 26, 2018, CRH Americas and Pounding Mill entered into an Asset Purchase Agreement. Pursuant to this agreement, CRH Americas will acquire all the assets of Pounding Mill, including four quarries located in West Virginia and Virginia and the equipment and other property used to operate such quarries and run the Pounding Mill business. The proposed transaction, as initially agreed to by Defendants, would lessen competition substantially as a result of CRH Americas' acquisition of Pounding Mill's assets. This acquisition is the subject of the Complaint and

proposed Final Judgment filed by the United States on June 22, 2018.

B. The Competitive Effects of the Transaction for Aggregate and Asphalt Concrete Used for WVDOT Projects

1. Relevant Markets Affected by the Proposed Acquisition

a. Product Markets

i. WVDOT Aggregate

Aggregate is particulate material that primarily includes crushed stone, sand, and gravel. It is produced at mines, quarries, and gravel pits and is used for a variety of construction projects. Aggregate generally can be categorized based on size into fine aggregate and coarse aggregate. Within the categories of fine and coarse aggregate, aggregate is further identified based on the size of the aggregate and the type of rock. Aggregate also can differ based on hardness, durability, and polish value, among other characteristics. Further, various sizes and types of aggregate are distinct and often used for different purposes.

Aggregate is an essential component of road construction, such as building or repairing roads. Aggregate is used in road projects as a base that is laid and compacted under the asphalt concrete. Aggregate also is an essential ingredient in asphalt concrete, which is used for paving roads and other areas. There are no substitutes for aggregate in these types of road construction projects because no other materials can be used for the same purpose.

To evaluate the proposed acquisition's effects on the market for aggregate, it is appropriate to include all sizes and kinds of aggregate because, with limited exceptions, each size and type of aggregate is offered under similar competitive conditions in the relevant geographic market. Thus, the grouping of the various sizes and types of aggregate makes evaluating competitive effects more efficient without undermining the reliability of the analysis.[1]

Because different types, sizes, and qualities of aggregate are needed depending on the intended use, the end-use customer establishes the exact specifications that the aggregate must meet for each application. These specifications are designed by the project engineers to ensure the safety and longevity of road construction projects. WVDOT purchases significant quantities of aggregate for its road construction projects, which include building, repairing and maintaining roads and bridges in West Virginia. WVDOT also purchases significant quantities of aggregate for its maintenance yards. These maintenance yards are used to store the aggregate purchased directly by WVDOT for use on the projects WVDOT completes itself, instead of through a contractor, such as fixing a pothole or repaving a small area of a road.

For each road project, WVDOT provides the precise specifications for the aggregate used for asphalt concrete and road base, among other things. WVDOT specifications are designed to ensure that the roads and bridges are built safely and withstand heavy usage over time. The use of aggregate that does not meet WVDOT specifications could compromise the safety of the road or bridge, or cause the need for repairs sooner than would otherwise be required. Therefore, aggregate that does not meet WVDOT specifications cannot be used.

A small but significant increase in the price of aggregate that meets WVDOT specifications (hereinafter ''WVDOT aggregate'') would not cause WVDOT to substitute other types of materials in sufficient quantities, or to utilize aggregate that does not meet its specifications, with sufficient frequency so as to make such a price increase unprofitable. Accordingly, WVDOT aggregate is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

ii. WVDOT Asphalt Concrete

Asphalt concrete is a composite material that is used to surface roads, parking lots, and airport tarmacs, among other things. Asphalt concrete consists of aggregate combined with liquid asphalt and other materials. Asphalt concrete has unique performance characteristics compared to other building materials, such as ready mix concrete. For example, asphalt concrete is the desired material used to build roadways because it has optimal surface durability and friction, resulting in low tire wear, high breaking efficiency, and low roadway noise. Other products generally cannot be used as economically to build and maintain roadways and therefore are not adequate substitutes.

WVDOT purchases significant quantities of asphalt concrete for road construction and maintenance projects in West Virginia. For each road project, WVDOT provides the precise specifications for the asphalt concrete. WVDOT specifications are designed to ensure that the roads are built safely and withstand heavy usage over time. Using asphalt concrete that does not meet WVDOT specifications could compromise the safety of the road or cause the need for repairs sooner than would otherwise be required. Therefore, asphalt concrete that does not meet WVDOT specifications cannot be used.

A small but significant increase in the price of asphalt concrete that meets WVDOT specifications (hereinafter ''WVDOT asphalt concrete'') would not cause WVDOT to substitute other materials in sufficient quantities, or to utilize asphalt concrete that does not meet its specifications, with sufficient frequency so as to make such a price increase unprofitable. Accordingly, WVDOT asphalt concrete is a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

b. Geographic Markets

The relevant geographic markets for both WVDOT aggregate and WVDOT asphalt concrete are the following four counties in West Virginia: Wyoming, Raleigh, Mercer, and Summers (these four counties are hereinafter referred to as ''Southern West Virginia'').

i. WVDOT Aggregate

Aggregate is a relatively low-cost product that is bulky and heavy, with high transportation costs. The geographic area an aggregate supplier can profitably serve is primarily determined by: (1) the distance from the quarry to the job site where the aggregate is used; and (2) the relative distance between the supplier's competitor's quarry and the job site compared to its own. Suppliers know the importance of transportation costs to a customer's selection of an aggregate supplier and also know the locations of all their competitors. An aggregate supplier can often charge a lower/more competitive price than its competitor if its quarry is closer to the customer's location than its competitor's quarry.

CRH Americas owns and operates aggregate quarries located in Beckley and Lewisburg, West Virginia and those quarries sell WVDOT aggregate to customers with plant locations or job sites in Southern West Virginia. Customers with plant locations or job sites in Southern West Virginia may also economically procure WVDOT aggregate from Pounding Mill's quarries located in Princeton, West Virginia and Rocky Gap, Virginia, and from another smaller third-party quarry located in Lewisburg, West Virginia. For many customer locations in Southern West Virginia,

[1] However, the market for aggregate does not include friction-coarse aggregate that is used to create the anti-skid surface layer of roads. Pounding Mill does not have the ability to manufacture friction-coarse aggregate and the competitive conditions for that product are not similar to the remaining aggregate market.

quarries owned by CRH Americas and Pounding Mill are the two closest options and can quote different prices based on the location of a customer in relation to each supplier's quarries.

A small but significant post-acquisition increase in the price of WVDOT aggregate to customers with plants or job sites in Southern West Virginia would not cause those customers to substitute another product or procure aggregate from suppliers other than CRH Americas, Pounding Mill, and the third competitor in sufficient quantities so as to make such a price increase unprofitable. Accordingly, Southern West Virginia is a relevant geographic market for WVDOT aggregate within the meaning of Section 7 of the Clayton Act.

ii. WVDOT Asphalt Concrete

As with aggregate, the geographic area an asphalt-concrete plant can profitably serve is primarily determined by the location of its plant in relation to the job site and the relative location of competing suppliers. Asphalt-concrete suppliers typically deliver asphalt concrete to a job site. Distance from the plant to the job site is important for two reasons—temperature and transportation costs. First, asphalt concrete must be maintained at a certain temperature range before it is poured. If the temperature drops below that required by the asphalt-concrete specifications, it cannot be used. The temperature of asphalt concrete drops as it travels from the plant and drops faster in colder weather than in warmer weather. As a result, the distance between an asphalt- concrete plant and the project site determines whether a plant can service a particular geographic area. Second, asphalt concrete is heavy and transporting it is expensive. Therefore, the distance between the site where the asphalt concrete is poured and the asphalt-concrete plant drives transportation costs and has a considerable impact on the area a supplier can profitably serve.

A further factor that determines the area a supplier can profitably serve is the location of its plant in relation to competing plants. Suppliers know the importance of transportation costs to a customer's selection of a supplier and also generally know how far each competing supplier can deliver asphalt concrete. An asphalt-concrete supplier often will charge a lower/more competitive price than its competitor if its plant is closer to the customer's location than its competitor's plant.

CRH Americas has an advantage with respect to transportation costs because it owns and operates three of the four asphalt-concrete plants that supply WVDOT asphalt concrete and serve customers in Southern West Virginia. Customers with job sites in Southern West Virginia may also economically procure WVDOT asphalt concrete from CRH's sole asphalt-concrete competitor, which operates one asphalt-concrete plant in Mercer County, West Virginia. Pounding Mill does not own any asphalt-concrete plants, though it is currently supplying CRH Americas' competitor in the asphalt concrete market with the aggregate it needs to compete. Thus, the four asphalt-concrete plants that serve Southern West Virginia procure aggregate from CRH Americas and Pounding Mill.

A small but significant post-acquisition increase in the price of WVDOT asphalt concrete to customers with job sites in Southern West Virginia would not cause those customers to substitute another product or procure WVDOT asphalt concrete from suppliers other than CRH Americas or its rival in sufficient quantities so as to make such a price increase unprofitable. Accordingly, Southern West Virginia constitutes a relevant geographic market for WVDOT asphalt concrete within the meaning of Section 7 of the Clayton Act.

2. Anticompetitive Effects in the Market for WVDOT Aggregate

If CRH Americas acquired Pounding Mill, competition would be substantially lessened for the supply of WVDOT aggregate in Southern West Virginia. This market is already highly concentrated and would become significantly more concentrated as a result of the acquisition. For all WVDOT aggregate supplied in Southern West Virginia, including aggregate supplied to WVDOT through contractors for road projects and aggregate purchased directly by WVDOT for its maintenance yards, CRH Americas and Pounding Mill's combined market share is well over 80 percent. Moreover, the companies' combined share is even higher—over 90 percent—for the aggregate supplied by contractors for use in road projects.

Acquisitions that reduce the number of competitors in already concentrated markets are more likely to substantially lessen competition. Concentration can be measured in various ways, including by market shares and by the widely-used Herfindahl-Hirschman Index (''HHI''). Under the *Horizontal Merger Guidelines*, post-acquisition HHIs above 2,500 and changes in HHI above 200 trigger a presumption that a proposed acquisition is likely to enhance market power and substantially lessen competition in a defined market. Premerger, the HHI for aggregate supplied for WVDOT road projects is approximately 4,350. The post-acquisition HHI is approximately 8,500, with an increase of over 4,000. For WVDOT aggregate purchased by WVDOT for its maintenance yards, the premerger HHI is approximately 3,800. Post-acquisition, the HHI is approximately 6,700, with an increase of nearly 3,000.

CRH Americas and Pounding Mill compete vigorously in the market for WVDOT aggregate in Southern West Virginia. For many customers and job sites in that area, they are the first- and second-best sources of supply for aggregate in terms of price, quality, and reliability of delivery. Only one other company, located in Lewisburg, West Virginia, is able to supply WVDOT aggregate in Southern West Virginia in any meaningful quantity. But while this competitor supplies WVDOT aggregate to maintenance yards, it has not bid on many road projects, leaving only CRH Americas and Pounding Mill to compete for most of those large projects. While a few other small suppliers provide limited quantities of WVDOT aggregate for maintenance yards in Southern West Virginia, they are unable to provide the large quantity of aggregate needed on road projects and do not supply the types or quality of aggregate needed for the asphalt concrete and road base.

The proposed acquisition would substantially increase the likelihood that CRH Americas would unilaterally increase the price of WVDOT aggregate to customers in Southern West Virginia. Without the constraint of competition between CRH Americas and Pounding Mill, the combined firm would have a greater ability to exercise market power by raising prices to customers for whom CRH Americas and Pounding Mill were the two best sources of WVDOT aggregate.

Therefore, the proposed acquisition would substantially lessen competition in the market for WVDOT aggregate in Southern West Virginia. This is likely to lead to higher prices for the ultimate consumers of such aggregate, in violation of Section 7 of the Clayton Act.

3. Anticompetitive Effects in the Market for WVDOT Asphalt Concrete

CRH Americas' acquisition of Pounding Mill would substantially lessen competition in the market for WVDOT asphalt concrete in Southern West Virginia. CRH Americas has historically dominated this market. Pounding Mill does not compete directly with CRH Americas in the asphalt-concrete market, but it is a

supplier of aggregate to CRH Americas' only competitor. That competitor, a recent entrant, has recently begun making inroads in the WVDOT asphalt-concrete market, and eroding CRH Americas' dominant position. By building its asphalt-concrete plant close to Pounding Mill's quarry in Mercer County, this entrant attempted to ensure that it would have a reliable, nearby source of aggregate, which allowed it to charge competitive prices. Pounding Mill is uniquely positioned to provide asphalt-concrete producers such as this entrant with competitively priced aggregate because it is not itself vertically integrated, and so has no incentive to raise the costs or otherwise disadvantage other asphalt-concrete producers.

If the proposed acquisition were consummated, this entrant could no longer be assured an economical source of WVDOT aggregate. Post-merger, CRH Americas would have the ability and incentive to use its ownership of Pounding Mill's quarries to disadvantage its rival by either withholding WVDOT aggregate or supplying it at less favorable terms than Pounding Mill currently provides.

Any post-merger conduct by CRH Americas that cuts off the supply of WVDOT aggregate or raises the cost of that input would weaken its asphalt-concrete rival's ability to compete on price. If CRH Americas' rival cannot win WVDOT contracts, it may find it impossible to stay in business, thereby ensuring CRH Americas' control over the entire market for WVDOT asphalt concrete in Southern West Virginia.

CRH Americas would have the incentive and ability to raise the price or sacrifice sales of WVDOT aggregate in order to maintain its dominance in the asphalt-concrete market. Such a strategy would be attractive in part because the sale of asphalt concrete is significantly more profitable than the sale of aggregate. Therefore, if CRH Americas were able to gain additional asphalt-concrete sales by raising the price of aggregate to its rival, foreclosing supply, or delaying deliveries, the additional asphalt-concrete sales would be considerably more profitable to CRH Americas than any lost aggregate sales. By raising the costs of its sole competitor in the provision of WVDOT asphalt concrete, CRH Americas likely would gain the ability to unilaterally raise the price of WVDOT asphalt concrete in Southern West Virginia.

Therefore, CRH Americas' acquisition of Pounding Mill's quarries would give CRH Americas both the incentive and ability to either eliminate or raise the costs of its sole asphalt-concrete competitor. As a result, the acquisition would substantially lessen competition in the market for WVDOT asphalt concrete in Southern West Virginia.

4. Entry Will Not Constrain CRH Americas' Market Power

Entry into the market for WVDOT aggregate in Southern West Virginia is unlikely to be timely, likely, and sufficient to constrain CRH Americas' market power post-merger given the substantial time and cost required to open a quarry.

First, securing the proper site for an aggregate quarry is difficult and time-consuming. There are few sites on which to locate coarse aggregate operations in or near Southern West Virginia. Finding land with the correct rock composition requires extensive investigation and testing of candidate sites, as well as the negotiation of necessary land transfers, leases, and/or easements. Further, the location of a quarry close to likely job sites is extremely important due to the high cost of transporting aggregate.

Once a location is chosen, obtaining the necessary permits is also difficult and time-consuming. Attempts to open a new quarry often face fierce public opposition, which can prevent a quarry from opening or make opening it much more time-consuming and costly. Finally, even after a site is acquired and permitted, the owner must spend significant time and resources to prepare the land and purchase and install the necessary equipment. Moreover, once a quarry is operating, a supplier must demonstrate that its aggregate meets WVDOT specifications. WVDOT qualification requires testing. Until the aggregate can meet these specifications, it cannot be used to supply WVDOT road construction projects.

Entry into the market for WVDOT asphalt concrete in Southern West Virginia also is unlikely to be timely, likely, or sufficient to constrain CRH Americas' post-merger market power. Potential entrants in WVDOT asphalt concrete must have access to WVDOT aggregate. Only CRH Americas and one other competitor would be available to supply WVDOT aggregate in Southern West Virginia and, for many locations in Southern West Virginia, the remaining competitor will not be an economical alternative. Post-merger, CRH Americas would have the incentive and opportunity to foreclose its competitors' access to WVDOT aggregate or disadvantage its rivals by either withholding WVDOT aggregate or supplying it on less favorable terms. Lack of access to a reliable, independent supply of aggregate will deter or prevent timely or sufficient entry into the asphalt-concrete market in Southern West Virginia.

In addition, an entrant into the asphalt-concrete market would have to purchase appropriate land close to an aggregate quarry, build a plant, procure the necessary permits, and obtain WVDOT approval of each asphalt-concrete mix made, among other things. These actions are required before production of asphalt concrete can begin and involve significant costs and often lengthy time periods.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture required by the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the markets for WVDOT aggregate and WVDOT asphalt concrete by establishing a new, independent, and economically viable WVDOT aggregate supplier in Southern West Virginia. The divestiture will preserve the current state of competition in both the markets for WVDOT aggregate and WVDOT asphalt concrete.

A. The Divestiture Assets

The proposed Final Judgment requires CRH and CRH Americas to divest all assets that are primarily used for or in connection with Pounding Mill's Rocky Gap quarry. CRH and CRH Americas must divest all real property identified in Paragraph II(G)(1) of the proposed Final Judgment upon which the Rocky Gap quarry currently operates, and the property adjacent to that quarry.

In addition, CRH and CRH Americas must divest all tangible assets listed in Paragraph II(G)(2) of the proposed Final Judgment that have been primarily used to operate the Rocky Gap quarry at any time since July 31, 2016. This includes all production equipment that has been used at the Rocky Gap quarry since that date. This provision ensures that, among other things, any mobile tangible assets, such as vehicles or production equipment, used at the Rocky Gap quarry since July 31, 2016, are divested. Further, CRH and CRH Americas must divest all ongoing customer contracts that have been fulfilled by aggregate produced at the Rocky Gap quarry, even if the contract does not require that the aggregate be produced at the Rocky Gap quarry. This provision will ensure that the acquirer of the Divestiture Assets receives all ongoing work of the Rocky Gap quarry and prevent CRH Americas from fulfilling such work from one of its other quarries post-acquisition, including the nearby quarry that it is acquiring from Pounding Mill.

Defendants also are required to divest all intangible assets that have been primarily used by the Rocky Gap quarry at any time since July 31, 2016. The proposed Final Judgment provides that Pounding Mill cannot interfere with the permitting, operation, or divestiture of the Divestiture Assets and shall not undertake any challenges to the permits relating to the Divestiture Assets.

B. The Acquirer of the Divestiture Assets

Paragraph IV(I) of the proposed Final Judgment provides that final approval of the divestiture, including the identity of the acquirer, is left to the sole discretion of the United States to ensure the continued independence and viability of the Divestiture Assets in the relevant markets. In this matter, Salem has been identified as the expected purchaser of the Divestiture Assets. Due to the narrow local market at issue and the small number of companies with sufficient expertise that operate in or near Southern West Virginia, there are only a small number of potential purchasers that could quickly begin operating the Rocky Gap quarry. After a thorough examination of Salem, its plans for the Divestiture Assets, the proposed sale agreement, and consideration of feedback from customers, the United States approved Salem as the buyer. Salem is a large, regional producer of construction aggregates and owns 15 quarries in Virginia and North Carolina. Salem is a strong aggregate competitor in markets near Southern West Virginia, and WVDOT has qualified various types of the aggregate that Salem produces for use on its road projects. Salem's vast experience producing and selling aggregate, its familiarity with WVDOT's approval process, and its familiarity with nearby geographic markets should ensure that in its hands the Divestiture Assets will provide meaningful competition.

If the sale to Salem does not occur, CRH and CRH Americas may sell the divestiture assets to another acquirer, subject to the approval of the United States. If CRH Americas does not secure an acceptable acquirer and divest the assets during the time period allowed for the divestiture, an acquirer will be located by a trustee, subject to the approval of the United States.

C. Provisions of the Proposed Final Judgment

Paragraph IV(A) of the proposed Final Judgment requires that the Divestiture Assets be sold to Salem or an approved acquirer within ten days after the Court signs the Hold Separate. The entry of the Hold Separate was chosen as the date upon which the divestiture period begins to run because CRH and CRH Americas cannot consummate the acquisition of Pounding Mill's assets until the Court enters the Hold Separate, and that acquisition must be consummated before the Divestiture Assets are sold. If the Divestiture Assets are not sold within ten days of the Court's entry of the Hold Separate, a Divestiture Trustee is to be appointed to sell the Divestiture Assets to an entity acceptable to the United States.

Defendants also are required to provide various information regarding and access to the Divestiture Assets to potential acquirers of those assets. For example, Defendants are required to provide the Acquirer information relating to employees to enable the acquirer to make offers of employment. The proposed Final Judgment requires Defendants to provide information about employees at the Rocky Gap quarry, as well as the other three Pounding Mill quarries and several CRH Americas aggregate and asphalt-concrete facilities. The scope of this area includes the counties within and closest to the relevant geographic market alleged in the Complaint. This will ensure that the acquirer has a broad pool of potential candidates to choose from. In addition, Defendants must provide information regarding employees at CRH Americas' asphalt-concrete operations. Asphalt-concrete suppliers work closely with aggregate producers and are often knowledgeable about some aspects of the others' business. Therefore, asphalt-concrete suppliers may also be a source of qualified employees for an aggregate producer.

Further, Paragraph IV(J) of the proposed Final Judgment requires CRH and CRH Americas to notify all customers that have purchased aggregate from the CRH Americas quarries located in Southern West Virginia, and all four Pounding Mill quarries, that the Rocky Gap quarry has been sold and is not affiliated with CRH Americas or Pounding Mill. The proposed Final Judgment requires such notification be provided for customers that historically made aggregate purchases of a dollar value typical of WVDOT road construction projects. The more recent the customer, the smaller the dollar volume of purchases needed to meet the notification cut-off. This notification will ensure that customers are informed about the existence of the Rocky Gap quarry as an independent source of aggregate.

Section XI of the proposed Final Judgment requires CRH and CRH Americas to notify the Antitrust Division of certain proposed acquisitions not otherwise subject to filing under the Hart-Scott Rodino Act, 15 U.S.C. 18a (the ''HSR Act''). The requirement applies to acquisitions of entities engaged in the production of asphalt concrete and/or aggregate in and around the alleged relevant market, as defined in Paragraph IV(C) of the proposed Final Judgment.

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of Division consent decrees as effective as possible. Paragraph XIV(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XIV(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore all competition that would otherwise be harmed by the merger. Defendants agree that they will abide by the proposed Final Judgment, and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIV(C) of the proposed Final Judgment further provides that should the Court find in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, in order to compensate American taxpayers for any costs associated with the investigation and enforcement of violations of the proposed Final Judgment, Paragraph XIV(C) provides that in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to

reimburse the United States for attorneys' fees, experts' fees, or costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Finally, Section XV of the proposed Final Judgment provides that the Final Judgment shall expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and that the continuation of the Final Judgment is no longer necessary or in the public interest.

The divestiture will remedy the likely anticompetitive effects of the acquisition in the markets for WVDOT aggregate and WVDOT asphalt concrete by preserving the current state of competition in both markets.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the United States Department of Justice, Antitrust Division's website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Maribeth Petrizzi
Chief, Defense, Industrials, and Aerospace Section Antitrust Division
United States Department of Justice
450 Fifth Street, N.W., Suite 8700
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against CRH Americas' acquisition of Pounding Mill's quarries. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the markets for WVDOT asphalt concrete and WVDOT aggregate in Southern West Virginia. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v, U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[2]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns*, 489 F. Supp. 2d at 17; *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *see also U.S. Airways*, 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461); *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways*, 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable; *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications*, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways*, 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns*, 489 F. Supp. 2d at 11.[4] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways*, 38 F. Supp. 3d at 75.

VIII. DETERMINATIVE DOCUMENT

In formulating the proposed Final Judgment, the United States considered a report on the geology of the Rocky Gap Quarry site entitled ''Rocky Gap Quarry, Rocky Gap, Virginia'' dated March 13, 2017, authored by John Chermak, PhD, PG, to be a determinative document within the meaning of the APPA.

Dated: June 22, 2018

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA

/s/

Christine A. Hill (D.C. Bar #461048),

Attorney

United States Department of Justice, Antitrust Division Defense, Industrials, and Aerospace Section 450 Fifth Street, N.W., Suite 8700, Washington, D.C. 20530
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[3] *Cf. BNS*, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft*, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[4] *See United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.*, No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ljudmil Kljusev, M.D.; Decision and Order

On September 15, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Ljudmil Kljusev, M.D. (hereinafter, Respondent), of Milford, Connecticut. Order to Show Cause (hereinafter, OSC), at 1. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration on the ground that he does ''not have authority to handle controlled substances in the State of Connecticut, the [S]tate in which . . . [he is] registered with the DEA.'' *Id.* at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).

As to the Agency's jurisdiction, the Show Cause Order alleged that Respondent holds DEA Certificate of Registration No. BK7295834, which authorizes him to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 227 Naugatuck Avenue, Milford, Connecticut 06460. OSC, at 1. The Show Cause Order alleged that this registration expires on December 31, 2018. *Id.*

As the substantive ground for the proceeding, the Show Cause Order alleged that Respondent is ''currently without authority to practice medicine or handle controlled substances in the State of Connecticut, the [S]tate in which . . . [he is] registered with the DEA.'' *Id.* at 2. More specifically, it alleged that, on November 30, 2016, Respondent's ''license to practice medicine in the State of Connecticut (No. 039302) lapsed; on February 28, 2015 and December 6, 2016, respectively, Respondent's Connecticut Controlled Substances Registrations, Nos. CSP.0030952 and CSP.0059205, expired; and on February 21, 2017, Respondent ''entered into an agreement with the Connecticut Department of Health in which . . . [he] agreed not to renew or reinstate . . . [his] license to practice medicine in Connecticut.'' *Id.* at 1.

The Show Cause Order notified Respondent of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of the opportunity to submit a Corrective Action Plan. OSC, at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated October 2, 2017, Respondent requested ''a hearing in the matter of Order to . . . [Show] Cause in timely manner, for why my DEA license should not be revoked or surrendered.'' Hearing Request, at 1. According to the Hearing Request, Respondent ''did not commit the alleged crimes of distribution of narcotics and money laundering,'' although he admitted that, ''[he pled] guilty and served 26 months in federal prison.'' *Id.* at 2. In the Hearing Request, Respondent admitted that he ''voluntarily surrendered . . . [his] medical license'' and also stated that he did not surrender his DEA license because his research ''found that [it] is almost impossible to get it back'' and because he ''must say that . . . [he is] disheartened to surrender what has been . . . [his] livelihood.'' *Id.* at 6.[1]

The Office of Administrative Law Judges put the matter on the docket and assigned it to Administrative Law Judge Mark M. Dowd (hereinafter, ALJ). I adopt the following statement of procedural history from the ALJ's Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge dated November 15, 2017 (hereinafter, R.D.).

> Th[e ALJ], on October 11, 2017, ordered the Government to file evidence to support the allegations that the Respondent lacked state authority to handle controlled substances by October 23, 2017.[2] Moreover, the Respondent was given until November 9, 2017, to file a response to any allegations made by the Government.[3]
>
> On October 19, 2017, the Government filed a Motion for Summary Disposition (Government's Motion), seeking a recommended decision granting the Government's Motion and recommending revocation. Gov't Mot. at 5. The Government provided evidence that the Respondent voluntarily surrendered his license to practice as a physician and surgeon through the Declaration of . . . [a DEA Diversion Group Supervisor], the Respondent's ''Voluntary Agreement Not To Renew Or Reinstate License,'' a notarized letter from the Practitioner License and Investigations Section of the Connecticut Department of Public Health, and the State of Connecticut License Lookup website report. Gov't Mot. at Attch. 1; Gov't Mot. at Ex. 1; Gov't Mot. at Ex. 2; Gov't Mot. at Ex. 3. As to the Respondent's State of Connecticut Controlled Substance Registrations, the Government . . . searched the State of Connecticut License Lookup website, where the Government produced evidence that the Respondent's Controlled Substances Registrations no. CSP.0030952 and CSP.0059205 remain 'inactive' and expired on February 28, 2015, and December 6, 2016, respectively, Gov't Mot. at Ex. 4, 5.
>
> To date, the Respondent failed to file any response to the Government's Motion or evidence produced.
>
> R.D., at 2–3.
>
> In his R.D., the ALJ granted the Government's Motion for Summary Disposition, and recommended that Respondent's registration be revoked and that any pending applications for its renewal be denied.
>
> At this juncture, no dispute exists over the fact that the Respondent currently lacks state authority to handle controlled substances in Connecticut due to his voluntary surrender of his license to practice as a physician and surgeon on February 21, 2017 . . . . Because the Respondent lacks state authority at the present time, Agency precedent dictates that he is not entitled to maintain his DEA registration. Simply put, there is no contested factual matter that could be introduced at a hearing that would, in the Agency's view, provide authority to allow the Respondent to continue to hold his . . . [DEA registration].
>
> *Id.* at 5. By letter dated December 15, 2017, the ALJ certified and transmitted the record to me for final agency action. In that letter, the ALJ stated that neither party filed exceptions and that the time period to do so had expired.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

[1] By letter dated October 6, 2017, Respondent submitted a ''Correction [sic] Action Plan'' stating that, ''Now that I understand the law of proceedings, if I had a chance to continue to practice I will secure the prescriptions and never issue any refill without personally having seen those patients and will be having a licensed medical practitioner on site.'' Corrective Action Plan, at 3. Respondent' s Corrective Action Plan also stated that, ''[S]hould I continue to be able to prescribe, I will assure that I implement all the safe modes of practices, bill only for the visits that I conduct face to face, not over the Skype and will never prescribe controlled substances again if necessary.'' *Id.*

By letter dated December 5, 2017, the Acting Assistance Administrator, Diversion Control Division, responded to Respondent's Corrective Action Plan. ''After careful review,'' she stated, ''I deny the request to discontinue or defer administrative proceedings.'' Corrective Action Pan Denial, at 1. She added that, ''I have determined there is no potential modification of your [Proposed Corrective Action Plan] that could or would alter my decision in this regard.'' *Id.*

[2] The October 11, 2017 document that the R.D. references is the ALJ's Order Directing the Filing of Government Evidence of Lack of State Authority Allegation and Briefing Schedule, at 1.

[3] The document the R.D. references is the document described in footnote 2, at 2.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. BK7295834, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 227 Naugatuck Avenue, Milford, Connecticut 06460. Declaration of DEA Diversion Group Supervisor dated October 18, 2017 (hereinafter, GS Declaration), at 1. Respondent's registration expires on December 31, 2018. *Id.*

The Status of Respondent's State License

On February 21, 2017, Respondent signed a ''Voluntary Agreement Not to Renew or Reinstate License'' (hereinafter, Voluntary Agreement) prepared by the Connecticut Department of Public Health. *Id.* On February 28, 2017, a Public Health Services Manager of the Practitioner Licensing and Investigations Section, Healthcare Quality & Safety Branch of the Connecticut Department of Public Health, accepted Respondent's Voluntary Agreement. In the Voluntary Agreement, Respondent stated that his license to practice as a physician and surgeon, license number 039302, lapsed on November 30, 2016. Voluntary Agreement, at 1. He ''voluntarily'' agreed ''not to renew or reinstate'' that license. *Id.*

By notarized letter dated October 16, 2017 (hereinafter, Certification of Lack of State Authority), a License and Applications Specialist of the Practitioner Licensing and Investigations Section certified that Respondent ''voluntarily agreed not to renew or reinstate his Connecticut license,'' and that Respondent ''is not authorized to practice medicine in the [S]tate of Connecticut.'' Certification of Lack of State Authority, at 1. Further, according to the online records of the State of Connecticut, of which I take official notice, I find that Respondent is still not authorized to practice medicine in Connecticut.[4]

According to Connecticut's online records, of which I also take official notice, Respondent no longer has authority to handle controlled substances in Connecticut.[5] Connecticut Controlled Substance Registration No. CSP.0030952, issued to Respondent on March 7, 2013, expired on February 28, 2015, and Connecticut Controlled Substance Registration No. CSP.0059205, issued to Respondent on January 9, 2015, expired on December 6, 2016. State of Connecticut's eLicense website, *https://www.elicense.ct.gov* (last visited June 20, 2018). Connecticut's online records show no active Connecticut Controlled Substance Registration issued to Respondent. *Id.*

Accordingly, I find that Respondent currently is without authority to engage in the practice of medicine or to handle controlled substances in Connecticut, the State in which he is registered.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA), ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices. *See, e.g., Hooper, supra,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988), *Blanton, supra,* 43 FR at 27,617.

According to the Connecticut statute concerning Controlled Substance Registration, ''[e]very practitioner who distributes, administers or dispenses any controlled substance or who proposes to engage in distributing, prescribing, administering or dispensing any controlled substance within this [S]tate shall . . . obtain a certificate of registration issued by the Commissioner of Consumer Protection in accordance with the provisions of this chapter.'' Conn. Gen. Stat. Ann. § 21a–317 (West, Westlaw through enactments of Public Acts enrolled and approved by the Governor on or before April 27, 2018 and effective on or before April 27, 2018). *See also* Conn. Gen. Stat. Ann. § 21a–316 (West, Westlaw through enactments of Public Acts enrolled and approved by the Governor on or before April 27, 2018 and effective on or before April 27, 2018) (''Practitioner,'' for purposes of Controlled Substance Registration, ''means . . . [a] physician . . . or other person licensed, registered or otherwise permitted to . . . dispense . . . [or] administer a controlled substance in the course of professional practice'' in Connecticut) and Conn. Agencies Regs. § 21a–326–2(e) (1984) (''Practitioner'' is a registration classification and includes ''M.D.'').

Here, there is no dispute about the material fact that ''Respondent currently lacks [S]tate authority to handle controlled substances in Connecticut due to his voluntary surrender of his license to practice as a physician and surgeon on February 21, 2017'' and the expiration of his Connecticut Controlled Substance registrations. R.D., at 5. I will therefore order that Respondent's DEA registration be revoked.

Given my findings that Respondent lacks authority in Connecticut to dispense controlled substances, I agree

[4] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration within 20 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Respondent files a motion, the Government shall have 20 calendar days to file a response.

[5] *See* footnote 1. If Respondent disputes this finding, he may do so according to the terms stated in footnote 1.

with the former Acting Assistant Administrator of the Diversion Control Division, and I find that Respondent's Corrective Action Plan provides no basis for me to discontinue or defer this proceeding. 21 U.S.C. 824(c)(3).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. BK7295834 issued to Ljudmil Kljusev, M.D., be, and it hereby is, revoked. This Order is effective August 1, 2018.

Dated: June 20, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–14161 Filed 6–29–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On June 22, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Middle District of North Carolina in the lawsuit entitled *United States* v. *North Carolina Department of Transportation,* Civil Action No. 1:18–cv–00541.

The United States, on behalf of the U.S. Environmental Protection Agency (EPA), filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The complaint seeks performance of response action for Operable Unit 1 of the Aberdeen Contaminated Groundwater Superfund Site (''Site''), in Moore County, North Carolina. The contaminated area associated with Town of Aberdeen supply wells #5 and #9 is known as ''Operable Unit 1,'' one of two operable units at the Site.

The proposed consent decree would resolve the claim alleged in the complaint. It requires defendant NCDOT to implement the remedy selected by EPA for Operable Unit 1.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *North Carolina Department of Transportation,* D.J. Ref. No. 90–11–3–1058/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email.	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611,

Please enclose a check or money order for $58.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $16.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–14086 Filed 6–29–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

U.S. Marshals Service

[OMB Number 1105—NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Proposed Collection; Comments Requested: Form USM–164, Applicant Reference Check Questionnaire

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service (USMS), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on June 5, 2017, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 1, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Nicole Timmons either by mail at CG–3, 10th Floor, Washington, DC 20530–0001, by email at *Nicole.Timmons@usdoj.gov,* or by telephone at 202–236–2646. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* Form USM–164, Applicant Reference Check Questionnaire.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: USM–164.

Component: U.S. Marshals Service, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals (supervisors, peers, subordinates).

Abstract: This form will primarily be used to collect applicant reference information. Reference checking is an objective evaluation of an applicant's past job performance based on information collected from key individuals (*e.g.,* supervisors, peers, subordinates) who have known and worked with the applicant. Reference checking is a necessary supplement to the evaluation of resumes and other descriptions of training and experience, and allows the selecting official to hire applicants with a strong history of performance. The questions on this form have been developed following the OPM, MSPB, and DOJ ''Best Practice'' guidelines for reference checking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,500 respondents will respond to the form, and it will take approximately 15–20 minutes to record their responses on the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 500 hours, which is equal to 1,500 (total # of annual responses) * 20 minutes.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: June 25, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–13905 Filed 6–29–18; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Employment and Training Administration

Assignment and Processing of Labor Certification Applications for the Temporary Employment of Aliens in Non-Agricultural Employment in the United States

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's Office of Foreign Labor Certification (OFLC) is making this announcement to inform employers and other interested stakeholders how H–2B *Applications for Temporary Employment Certification,* Form ETA–9142B, filed by employers on or after July 3, 2018, will be assigned to staff.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Administrator, Office of Foreign Labor Certification, Employment & Training Administration, U.S. Department of Labor, Room 12–200, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: 202–513–7350 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627.

SUPPLEMENTARY INFORMATION:

I. Background

OFLC continues to experience significant increases in the number of H–2B applications requesting temporary labor certification, and those submissions are generally received on the earliest day employers, seeking to obtain visas for their workers under the semi-annual allotments, are permitted by regulation to file (*i.e.,* 75 to 90 days before the start date of work). For example, in the past several second-half semi-annual filing cycles, the overwhelming majority of H–2B applications were received on January 1, which is the earliest date on which an H–2B application may be filed for a period of need beginning on April 1. Because of the intense competition for H–2B visas in recent years, the semi-annual visa allocation, and the regulatory timeframes for filing a request for temporary labor certification, stakeholders have also raised questions regarding the earliest time of day on which an application can be submitted to OFLC. In order to process the significant surge of applications that OFLC expects to receive in a short period of time during the semi-annual visa allotment periods in a more equitable manner and to clarify the time at which an application is received, OFLC will be implementing the following procedures.

II. Process Announcement

For H–2B applications filed on or after July 3, 2018, OFLC will sequentially assign H–2B applications to analysts based on the calendar date and time on which the applications are received (*i.e.,* receipt date and time). Receipt time will be measured to the millisecond, *e.g.,* 12:00:00.000 a.m. OFLC's technology servers are located in the Eastern Time Zone; therefore, the time an application is received and assigned to analysts is based on Eastern Time (ET). Applications submitted from other time zones may be filed as early as 12:00:00.000 a.m. ET, as discussed below.

Once assigned, the analysts will initiate review of each H–2B application in the order of receipt date and time, and in accordance with 20 CFR 655.30. Based on the analyst's review, the Certifying Officer (CO) will authorize issuance of either a Notice of Acceptance (NOA) under 20 CFR 655.33 or a Notice of Deficiency (NOD) under 20 CFR 655.31. Following issuance of NOAs and/or NODs, the applications will be processed as each successive stage in the process is completed. Employers receiving NOAs may proceed to meet the additional regulatory requirements, including recruitment of U.S. workers and submission of recruitment reports. Employers receiving NODs must correct any deficiencies and then receive a NOA before proceeding to meet the additional regulatory requirements. As a result, for each application, analysts' review of NOD responses and recruitment reports, and issuance of final decisions (certifications and denials) will follow in the order in which each sequential step required by the regulations is concluded, irrespective of the receipt time of the application.

As required, OFLC will grant temporary labor certification only after the employer's H–2B application has met all the requirements for approving labor certification under 20 CFR 655.50 and the subpart. In accordance with regulatory requirements, OFLC will send all certified H–2B applications to the applicant by means normally assuring next day delivery. OFLC will issue rejections, withdrawals, and denials of labor certification applications as each determination is made by the CO.

III. Instructive Examples Related to Time Zones

Applicants wishing to file their H–2B applications at the earliest possible time may begin filing at 12:00:00.000 a.m. ET on the appropriate calendar day. As noted above, application receipt time is based upon ET. Receipt time is not based on the time zone covering the geographic location in which the applicant is filing, nor is it based on the time zone covering the geographic location in which the job is located. For example, applicants seeking to file an H–2B application from a location outside the Eastern Time Zone at the earliest possible filing time for the first-half semi-annual filing cycle of FY 2019

should file at 12:00:00.000 a.m. ET on July 3, 2018; not 12:00:00.000 a.m. in any other time zone in which that person is located on July 3, 2018.

As noted above, receipt time will be measured to the millisecond. The following examples help illustrate how the receipt date and time will be recorded on H–2B applications filed with OFLC:

- An H–2B application filed and received on July 3, 2018 at 12:00:00.000 a.m. ET will be stamped with a receipt date and time of July 3, 2018 at 12:00:00.000 a.m. ET;
- An H–2B application filed and received on July 3, 2018 at 12:00:00.000 a.m. Pacific Time (PT) will be stamped with a receipt date and time of July 3, 2018 at 3:00:00.000 a.m. ET;
- An H–2B application filed and received on July 2, 2018 at 9:00:00.000 p.m. PT will be stamped with a receipt date and time of July 3, 2018 at 12:00:00.000 a.m. ET;
- An H–2B application filed and received on January 1, 2019 at 12:00:00.000 a.m. Central Time (CT) will be stamped with a receipt date and time of January 1, 2019 at 1:00:00.000 a.m. ET; and
- An H–2B application filed and received on December 31, 2018 at 11:00:00.000 p.m. CT will be stamped with a receipt date and time of January 1, 2019 at 12:00:00.000 a.m. ET.

Dated: June 27, 2018.

Nancy Rooney,

Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2018–14207 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Telecommunications Standard

ACTION: Notice of availability; request for comments.

SUMMARY: On June 29, 2018, the Department of Labor will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Telecommunications 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 August 1, 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=201804-1218-002* (this link will only become active as of June 30, 2018) 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 Telecommunications Standard information collection. Regulations 29 CFR 1910.268(c) establishes the information collection requirements of the Telecommunications Standard and makes it mandatory for an employer to generate and maintain training certification records for all workers covered by the Standard. Occupational Safety and Health Act of 1970 sections 2(b)(9) and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 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 1218–0225.

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 January 12, 2018 (83 FR 1632).

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 1218–0225. 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: Telecommunications Standard.

OMB Control Number: 1218–0225.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 35,742.

Total Estimated Number of Responses: 252,888.

Total Estimated Annual Time Burden: 5,349 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 26, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14088 Filed 6–29–18; 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; Vertical Tandem Lifts for Marine Terminals

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, ''Vertical Tandem Lifts for Marine Terminals,'' 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 August 1, 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=201804-1218-005* 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 Vertical Tandem Lifts for Marine Terminals information collection. The Vertical Tandem Lifts (VTLs) standards of regulations 29 CFR part 1917 require employers to develop, implement, and maintain a written plan for transporting vertically connected containers in the longshoring and marine terminal industries. The written plan is necessary for the safe transport of VTLs in the marine terminal where factors affect the stability of a VTL that has a higher center of gravity than a single container. Occupational Safety and Health of 1970 sections 2(b)(9), 6, and 8(c) authorizes this information collection. *See* 29 U.S.C. 651(b)(9), 655, and 657.

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 1218–0260.

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 January 22, 2018 (83 FR 3031).

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 1218–0260. 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: Vertical Tandem Lifts for Marine Terminals.

OMB Control Number: 1218–0260.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 128.

Total Estimated Number of Responses: 128.

Total Estimated Annual Time Burden: 512 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14146 Filed 6–29–18; 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; Electrical Standards for Construction and General Industry

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, ''Electrical Standards for Construction and General Industry,'' 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 August 1, 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=201805-1218-001* (this link will only become active as of June 30, 2018) 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 Electrical Standards for Construction and General Industry information collection requirements codified in regulations 29 CFR part 1910 subparts K and S. The information collection requirements specified by these Standards alert workers to the presence and types of electrical hazards in the workplace and, thereby, help prevent serious injury and death by electrocution. The information collection requirements in these Standards involve the following: The employer using electrical equipment that is marked with the manufacturer's name, trademark, or other descriptive markings that identify the producer of the equipment, and marking the equipment with the voltage, current, wattage, or other ratings necessary; requiring each disconnecting means for motors and appliances to be marked legibly to indicate its purpose, unless located and arranged so the purpose is evident; requiring entrances to rooms and other guarded locations containing exposed live parts to be marked with conspicuous warning signs forbidding unqualified persons from entering; and, for construction employers only, establishing and implementing the assured equipment grounding conductor program instead of using ground-fault circuit interrupters. 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 1218–0130.

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 January 17, 2018 (83 FR 2468).

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 1218–0130. 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: Electrical Standards for Construction and General Industry.

OMB Control Number: 1218–0130.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 682,390.

Total Estimated Number of Responses: 2,841,370.

Total Estimated Annual Time Burden: 194,976 hours.

Total Estimated Annual Other Costs Burden: $5,095,390.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 26, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–14087 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities, Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Consumer Price Index Housing Survey.'' A copy of the proposed

information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before August 31, 2018.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone 202–691–7628 (this is not a toll free number). (See Addresses Section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Price Index (CPI) is the timeliest instrument compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is used most widely as a measure of inflation, and is used in the formulation of economic policy. It also is used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars.

II. Current Action

Office of Management and Budget clearance is being sought for the CPI Housing Survey. The continuation of the collection of housing rents for the CPI is essential since the CPI is the nation's chief source of information on retail price changes. If the information on rents were not collected, Federal fiscal and monetary policies would be hampered due to the lack of information on price changes in a major sector of the U.S. economy, and estimates of the real value of the Gross Domestic Product could not be made. The consequences to both the Federal and private sectors would be far reaching and would have serious repercussions on Federal government policy and institutions.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- 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.

Title of Collection: CPI Housing Survey.
OMB Number: 1220–0163.
Type of Review: Extension.
Affected Public: Individuals or households; business or other for-profit.
Total Respondents: 75,769.
Frequency: Semi-annually.
Total Responses: 129,778.
Average Time per Response: 5.89560 minutes.
Estimated Total Burden Hours: 12,752 hours.

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 also will become a matter of public record.

Signed at Washington, DC, this 27th day of June 2018.

Eric P. Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2018–14205 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0040]

Proposed Extension of Information Collection; Independent Contractor Registration and Identification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Independent Contractor Registration and Identification.

DATES: All comments must be received on or before August 31, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0012.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Independent contractors perform services or construction at a mine. They may be engaged in virtually every type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns. Independent contractors vary in size, the type of work performed, and the time spent

working at mine sites. Some contractors work exclusively at mining operations, others may work a single contract at a mine and never return to MSHA jurisdiction. MSHA uses the contractor information in this information collection request during inspections to determine the responsibility for compliance with safety and health standards.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Independent Contractor Registration and Identification. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Independent Contractor Registration and Identification. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0004.

Affected Public: Business or other for-profit.

Number of Respondents: 22,728.

Frequency: On occasion.

Number of Responses: 171,607.

Annual Burden Hours: 18,531 hours.

Annual Respondent or Recordkeeper Cost: $628.

MSHA Forms: MSHA Form 7000–52, Contractor Identification (ID) Request.

Comments submitted in response to this notice will be summarized and 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.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–14089 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0096]

Proposed Extension of Information Collection; Underground Retorts

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Underground Retorts.

DATES: All comments must be received on or before August 31, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0022.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. Section 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in metal and nonmetal mines.

Title 30 CFR 57.22401 sets forth the safety requirements for using a retort to extract oil from shale in underground metal and nonmetal I–A and I–B mines (those that operate in a combustible ore and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located). At present, this applies only to underground oil shale mines. The standard requires that prior to ignition of underground retorts; mine operators must submit a written ignition operation plan to the appropriate MSHA District Manager which contains site-specific safeguards and safety procedures for the underground areas of the mine which are affected by the retorts.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Underground Retorts. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information has practical utility;

• Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

• Suggest methods to 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.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Underground Retorts. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0096.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Frequency: On occasion.

Number of Responses: 1.

Annual Burden Hours: 160 hours.

Annual Respondent or Recordkeeper Cost: $0.

Comments submitted in response to this notice will be summarized and 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.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–14090 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0146]

Proposed Extension of Information Collection; Refuge Alternatives for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Refuge Alternatives for Underground Coal Mines.

DATES: All comments must be received on or before August 31, 2018.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

• *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2018–0023.

• *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.

• *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Each underground coal mine has an emergency response plan (ERP) and refuge alternatives (RA) that protect miners when escape from a mine during a mine emergency is not possible by providing secure spaces with isolated atmospheres that create life-sustaining environments.

Title 30 CFR 75.1506 requires mine operators to provide refuge alternatives.

Section 75.1507 requires the development and implementation of emergency response plans. It requires that the ERP provide detailed information about the RAs used in the mine. This information assists miners, supervisors, emergency responders, and MSHA in assuring that all essential preparations are made and required materials are readily available and in working order. A mine operator may notify the District Manager and update the existing ERP if there is a need to locate an RA in a different location than the one identified in the ERP for that mine (as required by section 75.1506(c)(2)).

Section 75.1508 requires the mine operator to certify that persons assigned to examine, maintain, and repair RAs and components are trained for those tasks. Training certifications assist MSHA in determining that persons received the required training. The training certification for persons assigned to examine RAs is integrated into existing requirements for preshift examinations of the mine under section 75.360 (OMB 1219–0088). The training certification for persons assigned to maintain and repair RAs is included in this package under section 75.1508(a).

Section 75.1508(b) requires a record of any maintenance and repair performed on an RA. This record assists MSHA in identifying design flaws or other weaknesses in the refuge alternative or its components that could adversely impact the safety of miners.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Refuge Alternatives for Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to 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.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL-Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Refuge Alternatives for Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0146.

Affected Public: Business or other for-profit.

Number of Respondents: 10.

Frequency: On occasion.

Number of Responses: 36.

Annual Burden Hours: 159 hours.

Annual Respondent or Recordkeeper Cost: $36.

Comments submitted in response to this notice will be summarized and 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.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2018–14091 Filed 6–29–18; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298; NRC–2018–0133]

Nebraska Public Power District; Cooper Nuclear Station

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–46, issued to Nebraska Public Power District (NPPD), for operation of the Cooper Nuclear Station (CNS). The proposed amendment would modify the CNS technical specifications by revising the two recirculation loop and single recirculation loop Safety Limit Minimum Critical Power Ratio (SLMCPR) values to reflect the results of a cycle specific calculation. For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration. Because this amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Comments must be filed by August 1, 2018. Requests for hearing or petitions for leave to intervene must be filed by August 31, 2018. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by July 12, 2018.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0133. 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.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Thomas J. Wengert, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–4037; email: *Thomas.Wengert@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0133 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0133.
- *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 application for amendment, dated May 10, 2018, is available in ADAMS under Accession No. ML18137A199.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0133 in your comment submission.

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

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

II. Introduction

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. DPR–46, issued to NPPD, for operation of the CNS, located in Nemaha County, Nebraska.

The proposed amendment would modify the CNS technical specifications by revising the two recirculation loop and single recirculation loop SLMCPR values to reflect the results of a cycle specific calculation. These changes are needed to support startup from CNS' Refuel Outage 30, scheduled for the subsequent operating cycle.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Act, and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The basis of the SLMCPR is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. The new SLMCPR values preserve the existing margin to transition boiling. The derivation of the revised SLMCPR for CNS, for incorporation into the Technical Specifications and its use to determine plant and cycle-specific thermal limits, has been performed using NRC-approved methods. The revised SLMCPR values do not change the method of operating the plant and have no effect on the probability of an accident, initiating event or transient.

Based on the above, NPPD concludes that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes result only from a specific analysis for the CNS core reload design. These changes do not involve any new or unapproved methods for operating the facility. No new initiating events or transients result from these changes.

Based on the above, NPPD concludes that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The values of the proposed SLMCPR provide a margin of safety by ensuring that no more than 0.1% of fuel rods are expected to be in a boiling transition if the Minimum Critical Power Ratio limit is not violated. The proposed changes will ensure the appropriate level of fuel protection is maintained. Additionally, operational limits are established based on the proposed SLMCPR to ensure that the SLMCPR is not violated during all modes of operation. This will ensure that the fuel design safety criteria are met (*i.e.,* that at least 99.9% of the fuel rods do not experience transition boiling during normal operation as well as anticipated operational occurrences).

Based on the above, NPPD concludes that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html*. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit

adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated May 10, 2018.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602–0499.

NRC Branch Chief: Robert J. Pascarelli.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, on June 27, 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2018–14201 Filed 6–29–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0109]

Draft Letter to the Nuclear Energy Institute Regarding the Clarification of Regulatory Paths for Lead Test Assemblies

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability; opportunity for comment; reopening of comment period.

SUMMARY: On June 7, 2018, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on a draft letter to the Nuclear Energy Institute (NEI) clarifying the regulatory paths for the use of lead test assemblies (LTAs). The public comment period closed on June 27, 2018. The NRC has decided to reopen the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The comment period for the document published on June 7, 2018 (83 FR 26503), has been reopened. Comments should be filed no later than July 23, 2018. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0109. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Whitman, Office of Nuclear Reactor Regulation, telephone: 301–415–3253, email: *Jennifer.Whitman@nrc.gov,* or Kimberly Green, Office of Nuclear Reactor Regulation, telephone: 301–415–1627, email: *Kimberly.Green@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0109 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0109.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0109 in your comment submission.

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

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

I. Discussion

On June 7, 2018, the NRC solicited comments on a draft letter to NEI clarifying the regulatory paths for the use of LTAs. The purpose of the draft letter would finalize the NRC staff's views on the preliminary positions regarding LTAs provided in a letter to NEI dated June 29, 2017 (ADAMS Accession No. ML17150A443). The NRC does not currently have consolidated

regulatory guidance regarding the use of LTAs. Therefore, the NRC has drafted this letter to clarify its positions regarding the use of LTAs. These positions would affect light-water reactor licensees who wish to irradiate LTAs. The public comment period closed on June 27, 2018. The NRC has decided to reopen the public comment period on this document until July 23, 2018, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 26th day of June 2018.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–14121 Filed 6–29–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Revised Notice of Meeting: Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on July 11–14, 2018, 11545 Rockville Pike, Rockville, Maryland 20852.

Wednesday, July 11, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Brunswick Steam Electric Plant, Units 1 and 2 MELLLA+ Application (Open/Closed)—The Committee will have briefings by and discussion with representatives of the NRC staff and Duke Energy Progress regarding the safety evaluation associated with the Maximum Extended Load Line Limit Analysis Plus (MELLLA+) license amendment request. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

10:15 a.m.–12:15 p.m.: Digital Instrumentation & Controls Interim Staff Guidance-06, ''Licensing Process,'' Draft Revision 2, and Overview of the Integrated Action Plan for Modernization of the NRC's DI&C Regulatory Infrastructure (Open)—The Committee will have briefings by and discussion with representatives of the NRC staff regarding the subject topics.

1:45 p.m.–4:45 p.m.: APR1400: Selected Safety Evaluations Associated with Reactor Design Application (Open/Closed)—The Committee will have briefings by and discussion with representatives of the NRC staff and Korea Hydro & Nuclear Power (KNHP) regarding safety evaluations associated with the APR1400. [**Note:** This session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

5:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

Thursday, July 12, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

10:15 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

4:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note**: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

Friday, July 13, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 p.m.–12:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]

Saturday, July 14, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 p.m.–12:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and potential retreat items. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience. The bridgeline number for the meeting is 866–822–3032, passcode 8272423#.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each

presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–6702), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Note: This notice is late due to the adjustment of accurate meeting topics for APR1400. Specifically, the related Subcommittees which occurred in late May affected the schedule.

Dated at Rockville, Maryland, this 27th day of June 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–14202 Filed 6–29–18; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pension Benefit Guaranty Corporation Disaster Relief

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is changing how it announces relief from filing deadlines and penalties when a disaster occurs. Under an Announcement made today, PBGC's disaster relief will be available at the same time the Internal Revenue Service issues disaster relief for taxpayers that includes filing extensions for the Form 5500 series. Filers will not have to wait for PBGC to issue a separate announcement. For premium filings, PBGC is changing its practice so that in addition to no late payment penalty charges, no late payment interest charges will be assessed for the disaster relief period.

DATES: The Disaster Relief Announcement in this notice is effective for disasters for which the Internal Revenue Service has issued a disaster relief news release on or after July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; *cibinic.stephanie@pbgc.gov;* 202–326–4400 extension 6352. TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 extension 6352.

SUPPLEMENTARY INFORMATION:

Background

When there is a disaster covered by Internal Revenue Code section 1033(h)(3), Employee Retirement Income Security Act (ERISA) section 4002(i) gives the Pension Benefit Guaranty Corporation (PBGC) authority to extend deadlines by notice or otherwise. PBGC has followed a practice of posting a disaster relief announcement on its website each time the Internal Revenue Service (IRS) posts a disaster relief news release that includes filing extensions for the Annual Return/Report of Employee Benefit Plan Form 5500 Series. Each PBGC disaster relief announcement copies the disaster, disaster area, and relief period from the IRS news release on which it is based. Except for these types of fields, the text in PBGC disaster relief announcements is boilerplate that is repeated in every announcement.

IRS issues a separate disaster relief news release for each state affected by a disaster. Each news release lists the names of counties in the state that are covered by the relief. IRS may add newly affected counties to an existing news release. PBGC filers have to rely on a statement in each PBGC announcement that the corresponding IRS news release should be checked for other counties that IRS might have added. Because PBGC's announcements rely on data from IRS news releases, PBGC's announcements are always issued later than IRS' news releases. PBGC filers have to wait for PBGC to respond to each IRS disaster relief news release before they can be certain that PBGC is providing disaster relief.

PBGC is changing its practice to simplify how it announces disaster relief by referring PBGC filers directly to IRS' disaster relief news releases. Filers will no longer have to wait for PBGC to act, because PBGC's disaster relief will be keyed to IRS' news releases. Instead of multiple disaster relief announcements, all explaining disaster relief in the same repetitive language, PBGC will have one simple announcement that clearly explains how PBGC disaster relief is keyed to IRS relief, what circumstances generally lead to relief, and the nature of relief generally granted.

The qualifications for disaster relief and relief granted will be simpler and easier to apply. Formerly, relief was described separately for premiums, single-employer plan terminations, reportable events notices, annual employer reporting, administrative review, and multiemployer plan filings. This detail is unnecessary because, no matter the type of PBGC filing or whether the plan is a multiemployer or single-employer plan, the deadline extension is simply the end of the IRS relief period for due dates that fall within that period.

As with the current practice, there are exceptions to this general ''IRS-based'' relief, which are listed in the Announcement. Filers would still be able to request relief on a case-by-case basis for the excepted filings or other actions not covered by the general relief.

PBGC also makes the following changes and clarifications in the Announcement, which are designed to be helpful to plan sponsors:

- Formerly, a late premium payment eligible for disaster relief and paid by the end of the relief period was treated as timely for purposes of assessing the late payment penalty, but not the applicable interest charge. Under PBGC's new practice, the premium payment due date is extended so that no late payment penalty or interest charges will be assessed for the disaster relief period.
- Formerly, premium filers had to submit the premium form and payment owed (''the premium filing'') by the end of the relief period for disaster relief to apply. Under PBGC's new practice,

where a filer is unable to submit, or anticipates difficulty in submitting, a premium filing by the end of the relief period, the filer would simply notify PBGC by the end of the period of the filer's eligibility for disaster relief to apply. For example, if a premium filer notifies PBGC by the end of the relief period that the filer is eligible for disaster relief but is unable to submit the premium filing by that time, late payment penalty and interest charges would not begin to accrue until after the end of the relief period, *i.e.,* the extended due date for the payment. This same method of notification is available for filings other than premium filings covered by the general disaster relief.

- Formerly, filers would need to apply for case-by-case disaster relief for late annual financial and actuarial information reporting under ERISA section 4010. PBGC believes these filings more appropriately fall under general relief.
- Formerly, post-event notices of reportable events under ERISA section 4043 fell under general relief. Because certain of these filings involve time-sensitive information where there may be a high risk of substantial harm to participants or PBGC's insurance program, PBGC believes five post-event filings are more appropriate for case-by-case relief. Those five events are identified in the exceptions list in the Announcement.
- Formerly, where disaster relief is founded on problems getting information or assistance from a service provider, the provider's operations must be ''directly affected'' by the disaster. This vague standard is replaced with a clear standard that the service provider be located in the disaster area. This is the same objective condition as for the person required to file.

PBGC's Announcement of disaster relief is set forth below and posted on the ''Disaster Relief'' web page of *pbgc.gov*.

Announcement of Pension Benefit Guaranty Corporation Disaster Relief

When a disaster causes a delay in making a required filing or in taking some other required action, the Pension Benefit Guaranty Corporation (PBGC) generally grants relief by extending the time to act. PBGC's relief relies on data from Internal Revenue Service (IRS) announcements, so historically PBGC has followed IRS' lead when announcing relief. With this Announcement, unless a filing is on the ''Exceptions List'' below, filers can be assured that PBGC grants disaster relief when, where, and for the same relief period that IRS grants relief for taxpayers affected by a disaster. Filers will not have to wait for PBGC to issue a separate announcement.

PBGC also may grant case-by-case relief for filings and actions on the Exceptions List. See ''Requesting Case-by-Case Relief'' below for how to request such relief.

Disasters Covered

Except for filings and actions on the Exceptions List, PBGC provides relief where there is a disaster for which the IRS announces that tax relief is being granted for affected taxpayers that includes filing extensions for the Form 5500 series returns. The IRS announces tax relief for a disaster in a news release that states:

- The identifying number of the announcement.
- The disaster for which relief is granted.
- The disaster area covered by the announcement (typically counties within a state).
- The starting and ending dates of the relief period covered by the announcement.

Each news release may be updated periodically by the IRS to broaden the disaster area to include places subsequently affected by the same disaster and covered by the relief.

IRS news releases announcing tax relief for disasters are listed on IRS' website. Select the applicable news release on the list to see the text of the announcement.

Requirements for Disaster Relief

The disaster relief in this Announcement applies only if all of the following requirements are met:

- The person responsible for a filing, payment, or other action under PBGC regulations, *e.g.,* a plan administrator or contributing sponsor, is located in the disaster area. Or, a person responsible for providing information or other assistance needed for the filing, payment, or other action, *e.g.,* a service provider (such as the plan's enrolled actuary) or bank, is located in the disaster area.
- The due date of the filing, payment, or other action falls within the relief period.
- The filer notifies PBGC of the filer's eligibility for disaster relief on or before the last day of the relief period. See ''Notifying PBGC of Your Eligibility for Disaster Relief'' below.
- The filing or action is not described in the Exceptions List below.

Relief Granted

If the requirements for relief listed above are met, the due date for the filing, payment, or other action is extended to the last day of the relief period. Accordingly—

- A filing will not be subject to a late filing penalty under section 4071 or 4302 of the Employee Retirement Income Security Act of 1974 (ERISA) for the relief period.
- A premium payment will not be subject to late payment penalty or interest charges under section 4007 of ERISA for the relief period.
- The extended due date for a filing or other action will apply for purposes of calculating any other due date that is based on the due date of the filing or other action. For instance, if a plan is filing certain actuarial information by an alternative due date that is 15 days after a plan's Form 5500 due date (29 CFR 4010.10(b)), and the deadline to file a Form 5500 is extended because of a disaster, then the 15-day period in PBGC's regulation is automatically measured from the last day of the Form 5500 disaster relief period.

Example of How Disaster Relief Works

Plan A is a calendar year plan. Absent disaster relief, Plan A would be required to submit the 2018 Comprehensive Premium Filing (CPF) and pay its 2018 premium by October 15, 2018. IRS issues a news release providing disaster relief for tax payers in a specified disaster area for the period September 4, 2018 through January 31, 2019. Plan A's plan administrator is located in the disaster area covered by the IRS disaster relief news release. Plan A notifies PBGC that it is eligible for disaster relief on or before January 31, 2019 (either by submitting a CPF in which such eligibility is reported or by sending an email to PBGC). If Plan A pays its 2018 premium:

- On or before January 31, 2019, no late payment charges (interest or penalties) will be assessed.
- After January 31, 2019, late payment charges will begin accruing on February 1, 2019.

Exceptions List

The following filings and actions are not covered by the disaster relief described above. These are filings that involve particularly important or time-sensitive information where there may be a high risk of substantial harm to participants or PBGC's insurance program. To request case-by-case relief for these filings see ''Requesting Case-by-Case Relief'' below.

- Advance notices of reportable events under ERISA section 4043 (Form 10-Advance).

• Notices of large missed contributions under ERISA section 303(k) (Form 200).

• Post-event notices for the following five reportable events under ERISA section 4043:

—Failure to make required contributions under $1 million.
—Inability to pay benefits when due.
—Liquidation.
—Loan default.
—Insolvency or similar settlement.

• Actions related to distress terminations for which PBGC has issued a distribution notice.

Notifying PBGC of Your Eligibility for Disaster Relief

Premium filings: Notify us by providing certain information as part of the Comprehensive Premium Filing. See the Filing Instructions for the applicable plan year for details. We also encourage filers to notify us by email to *premiums@pbgc.gov* as soon as reasonably possible that you are eligible for disaster relief. The email should contain the following identifying information: (1) The number of the applicable IRS News Release, (2) plan information, *i.e.,* plan name, EIN, plan number, and, (3) the name and address of the person affected by the disaster. Item (3) may be omitted if the plan administrator's address reported in the most recently submitted premium filing is in the applicable disaster area.

In situations where a filer is unable to submit, or anticipates difficulty in submitting, the Comprehensive Premium Filing by the end of the relief period, the filer should notify us by sending an email with the same information and to the same address noted above.

All other filings or actions: Notify us by following the disaster relief instructions (if any) for the particular filing. If there are no such instructions, filers should notify us of their eligibility for relief by sending an email by the end of the relief period to the email address included in the instructions for the particular filing, or on a PBGC web page listing applicable contact information, such as PBGC's Contact Information for Practitioners page. The email should contain relevant identifying information, such as: (1) The number of the applicable IRS News Release, (2) plan information, *i.e.,* plan name, EIN, plan number, and, (3) the name and address of the person affected by the disaster. We encourage filers to notify us as soon as reasonably possible.

Requesting Case-by-Case Relief

Follow the instructions for requesting a waiver or extension in the regulations or instructions for completing the particular filing. For example, for a reportable events filing on the Exceptions List, follow the provision for waivers and extensions in PBGC's reportable events regulation at 29 CFR 4043.4. That provision explains that a request for a waiver or extension must be filed with PBGC in writing (which may be in electronic form) and must state the facts and circumstances on which the request is based.

If there is no such guidance, contact PBGC as soon as reasonably possible using the phone number or email address in the instructions for the particular filing, or on a PBGC web page listing applicable contact information, such as PBGC's Contact Information for Practitioners page.

Otherwise, contact PBGC's Practitioner Problem Resolution Officer by—

• Email at *practitioner.pro@pbgc.gov*.

• Telephone at 800–736–2444 extension 4136 or 202–326–4136. (For TTY users, call 800–877–8339 and request connection to 202–326–4136.)

• U.S. mail at Practitioner Problem Resolution Officer, Pension Benefit Guaranty Corporation, 1200 K Street NW, Suite 610, Washington, DC 20005–4026.

For general information on PBGC disaster relief, please call our toll-free practitioner number, 800–736–2444.

Issued in Washington, DC.

William Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–14125 Filed 6–29–18; 8:45 am]

BILLING CODE 7709–02–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 26, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 40 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–187, CP2018–261.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–14111 Filed 6–29–18; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act: Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on July 17, 2018, 10:00 a.m. at the Board's meeting room on the 8th Floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports.

The person to contact for more information is Martha Rico-Parra, Secretary to the Board, Phone No. 312–751–4920.

For the Board.

Dated: June 28, 2018.

Martha Rico-Parra,

Secretary to the Board.

[FR Doc. 2018–14258 Filed 6–28–18; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83526; File No. SR–BX–2018–027]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Exchange's Penny Pilot Program

DATES: June 26, 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 25, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 extend through December 31, 2018 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is set forth below. Proposed new language is *italicizied* and proposed deleted language is in brackets.

* * * * *

Nasdaq BX Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on *December 31, 2018* [June 30, 2018] or the date of permanent approval, if earlier, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's website.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following *July 1, 2018* [January 1, 2018].

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website at *http://nasdaqomxbx.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 purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through December 31, 2018 or the date of permanent approval, if earlier,[3] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2018.[4]

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2018 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2018. The replacement issues will be selected based on trading activity in the previous six months.[5]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot 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 potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal 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, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2018 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2018, will enable public customers and other market participants to express their true prices to buy and sell options

[3] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[4] *See* Securities Exchange Act Release No. 82367 (December 19, 2017), 82 FR 61050 (December 26, 2017) (SR–BX–2017–056).

[5] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2017 through May 31, 2018 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange 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.

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

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–BX–2018–027 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–BX–2018–027. 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–BX–2018–027 and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14117 Filed 6–29–18; 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. 34–83519; File No. SR–OCC–2018–009]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Facilitate Reporting Under Commodity Futures Trading Commission Regulations Applicable to Derivatives Clearing Organizations

June 26, 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 15, 2018, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A [3] of the Act and Rule 19b–4(f)(6) [4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by OCC would amend OCC Rule 601(e)(2) regarding customer information in data provided to OCC identifying the positions of each futures customer of a Clearing Member for purposes of calculating the initial margin requirement for segregated futures accounts. The proposed rule change is intended to facilitate reporting under Commodity Futures Trading Commission (''CFTC'') regulations applicable to Derivatives Clearing Organizations (''DCOs'') such as OCC. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to amend the provisions of OCC Rule 601(e)(2) with respect to information regarding the identity of customers included in data provided to OCC identifying the positions of each futures customer of a Clearing Member for purposes of calculating the initial margin requirement for segregated futures accounts. The proposed rule change removes the provisions that require ''a unique alphanumeric customer identifier for each such customer'' and that provide that information submitted to OCC pursuant to Rule 601(e)(2) ''shall not include any indication of the identity of any customer or other personal information of a customer.'' As described below, the removal of these provisions will allow OCC to perform daily reporting consistent with applicable CFTC regulations and associated guidance.

On November 8, 2011, the CFTC adopted reporting rules for DCOs in CFTC Regulation 39.19 that cover daily, quarterly, annual, and event-specific reporting.[6] The reporting requirements in Regulation 39.19 had a compliance date of November 8, 2012.[7] For daily reporting, paragraph (c)(1) of Regulation 39.19 requires DCOs to submit reports with certain initial margin, variation margin, cash flows, and end-of-day positions for each Clearing Member, by house origin and by each customer origin. In adopting these daily reporting requirements, the CFTC stated that ''[t]he overall purpose of receiving the daily data is to enable [CFTC] staff to analyze the data on a regular basis so that it can detect certain trends or unusual activity on a timely basis.'' [8]

CFTC Regulation 39.19 requires a DCO to report certain information in a format and manner specified by the CFTC.[9] Since the regulation's adoption, the CFTC has published a ''Guidebook for Daily Reports'' (''Guidebook'') that provides guidance and specifications to DCOs for submitting their daily reports under Regulation 39.19. Generally, daily reports must include, for each Clearing Member, information related to initial margin, daily variation margin, daily cash flows related to clearing and settlement, and end-of-day positions, by house origin and by each customer origin, for all futures, options, and swaps positions, and all securities positions held in a segregated account or pursuant to a cross margining agreement. The most recent version of the Guidebook—Version 9.2—was published in December 2017; however, Version 9.1, which was published earlier in 2017, introduced new reporting specifications that can be met only if OCC amends Rule 601(e)(2) as described below. Specifically, Section 2.1.2.2 of the Guidebook requires DCOs (other than exempt DCOs) to ''provide the clearing members' customer information that properly describes the margins reported'' by reporting customer names and legal entity identifiers (''LEIs'').

The Guidebook acknowledges that, at the time of its publication, customer-level information may not be available for all DCOs. Indeed, following publication of Version 9.1 of the Guidebook, the CFTC provided informal guidance to DCOs in August 2017 noting that the CFTC was aware that DCOs may not have names and LEIs for all customer accounts that they clear and understood that DCOs and futures commission merchants would begin a project in the near future to obtain names and LEIs for their customers.

OCC makes its daily reports to the CFTC in accordance with Regulation 39.19 based on information it receives from its Clearing Members. OCC Rule 601(e)(2) requires each Clearing Member to submit to OCC on each business day a data file that identifies the positions in segregated futures accounts of each futures customer of the Clearing Member using a unique alphanumeric customer identifier for each such customer. The rule, however, specifically requires Clearing Members to use a ''unique alphanumeric customer identifier for each customer'' and provides that ''such identifiers shall not include any indication of the identity of any customer or other personal information of a customer.'' For these segregated futures accounts, OCC prohibits Clearing Members from providing information such as customer name and LEI; thus, OCC does not currently have this information to include in its daily reports to the CFTC and is not able to provide customer-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

[6] *See* 17 CFR 39.19(c); *see also* Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334 (Nov. 8, 2011). OCC is a DCO as that term is defined in applicable CFTC regulations. *See* 17 CFR 1.3.

[7] *See* 76 FR 69334.

[8] 76 FR 69334, at 69400.

[9] *See* 17 CFR 39.19(b).

level information with respect to these accounts in accordance with the Guidebook specifications. Consequently, OCC is proposing to delete the customer identifier provisions from Rule 601(e)(2) so that Clearing Members can provide customer names and LEIs to OCC so that it can, in turn, provide this information on daily reports to the CFTC consistent with the CFTC staff guidance on daily reporting requirements under Regulation 39.19.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed, in general, to protect investors and the public interest.[10] OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[11] As noted above, OCC Rule 601(e)(2) requires each Clearing Member to submit to OCC on each business day a data file that identifies the positions in segregated futures accounts of each futures customer of the Clearing Member using a unique alphanumeric customer identifier for each such customer. The proposed rule change would remove this provision and the requirement that ''such identifiers shall not include any indication of the identity of any customer or other personal information of a customer.'' Once these provisions are removed, Clearing Members can provide this information to OCC, who can then provide it to the CFTC in accordance with the Guidebook specifications. This will enhance the CFTC staff's ability to perform its oversight function with the information it deems necessary, which promotes the protection of investors and the public interest.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act.[12] OCC does not believe that the proposed rule change would impose any burden on competition. Rather, the proposed rule change removes an existing restriction on the data provided to OCC by its Clearing Members regarding customers with segregated futures accounts. As discussed above, this will then allow OCC to provide this information to the CFTC, consistent with the CFTC staff guidance on daily reporting requirements under Regulation 39.19, who uses the information in performing its statutory mandate.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder, the proposed rule change is filed for immediate effectiveness because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2018–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2018–009. 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 such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_18_009.pdf.*

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–OCC–2018–009 and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14113 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78q-1(b)(3)(F).

[11] *Id.*

[12] 15 U.S.C. 78q–1(b)(3)(I).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] OCC provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission.

[16] Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Rule 40.6.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 83 **Federal Register** 29838, 26 June 2018.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, June 28, 2018 at 2:00 p.m.

CHANGES IN THE MEETING: The following item will not be considered during the Closed Meeting on Thursday, June 28, 2018:

- Report on an investigation.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 28, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–14281 Filed 6–28–18; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83522; File No. SR–NASDAQ–2018–047]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Transaction Fee for Execution of Midpoint Extended Life Orders

June 26, 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 12, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Rule 7018 to adopt a new transaction fee for execution of Midpoint Extended Life Orders.

While these amendments are effective upon filing, as discussed below, the Exchange will begin assessing the proposed fees on July 2, 2018.[3]

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018(a)(1)–(3) to charge no fee for execution of Midpoint Extended Life Orders in the month of July 2018 if the member executes at least 250,000 shares in Midpoint Extended Life Orders in June 2018, and adopt a fee of $0.0006 per share executed for execution of all other Midpoint Extended Life Orders in securities with a price of $1 or more. Transactions in Midpoint Extended Life Orders in securities with a price less than $1 will remain at no cost.

On March 7, 2018, the Commission approved the Exchange's proposal to adopt a new Order Type, the Midpoint Extended Life Order.[4] The Midpoint Extended Life Order is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will not be eligible to execute until the Holding Period of one half of a second has passed after acceptance of the Order by the System. Once a Midpoint Extended Life Order becomes eligible to execute by existing unchanged for the Holding Period, the Order may only execute against other eligible Midpoint Extended Life Orders. The Exchange has not assessed a charge for Midpoint Extended Life Orders executions since the Exchange began to offer them on March 12, 2018.[5]

Under Rule 7018, the Exchange is proposing to assess fees for certain Midpoint Extended Life Orders beginning July 2, 2018, while continuing to provide a no fee tier for the month of July 2018 if a member meets qualification criteria based on its activity in Midpoint Extended Life Orders in June 2018. Specifically, the Exchange is proposing to assess no charge for execution of Midpoint Extended Life Orders in the month of July 2018 if the member executes at least at least [sic] 250,000 shares in Midpoint Extended Life Orders in the immediately preceding month. Thus, the new fee will be applied beginning July 2, 2018 based on the number of Midpoint Extended Life Orders executed by the member in the month of June 2018. The Exchange is also adopting a new fee of $0.0006 per share executed assessed for execution of Midpoint Extended Life Orders in securities priced at $1 or more applicable to members that do not qualify under the no cost tier described immediately above. After July 2018, the Exchange will assess a charge of $0.0006 per share executed assessed [sic] for execution of any Midpoint Extended Life Order in a security priced $1 or greater. The proposed fees cover Orders in securities of any of the three tapes.

The Exchange believes that the market in Midpoint Extended Life Orders has matured to the point that it can support the proposed $0.0006 per share executed fee; however, the Exchange also believes that promoting liquidity in Midpoint Extended Life Orders continues to be warranted. Thus, the Exchange is proposing to not assess a fee for executions of Midpoint Extended Life Orders in the month of July 2018 if members have at least 250,000 shares executed in Midpoint Extended Life Orders in June 2018. Allowing transactions to occur at no cost if a member provides a certain level of Midpoint Extended Life Order liquidity will promote use of the Midpoint Extended Life Order, which will in turn help bring continued overall liquidity in Midpoint Extended Life Orders in securities priced $1 or more to the Exchange in June 2018, since members may increase their activity in Midpoint Extended Life Orders, and members that have not yet used Midpoint Extended Life Orders may begin trading in them to benefit from the zero fee tier. To the extent that members are provided

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed pricing changes on June 1, 2018 (SR–NASDAQ–2018–043). On July [sic] 12, 2018, the Exchange withdrew that filing and submitted this filing. This filing makes technical corrections, provides further discussion of the proposed change, and clarifies the statutory basis and burden on competition discussions.

[4] *See* Securities Exchange Act Release No. 82825 (March 7, 2018), 83 FR 10937 (March 13, 2018) (SR–NASDAQ–2017–074).

[5] *See* Securities Exchange Act Release No. 82905 (March 20, 2018), 83 FR 12988 (March 26, 2018) (SR–NASDAQ–2018–021).

incentive to trade in Midpoint Extended Life Orders to meet the zero fee tier qualification requirement, the benefit to liquidity should continue to through July 2018 as members that qualified for the zero fee tier take advantage of the zero fee trading for the month. Fees for all Midpoint Extended Life Orders in June 2018 will remain at no cost. In addition, the Exchange is not proposing to adopt a new fee for execution of Midpoint Extended Life Orders in securities below $1 (Rule 7018(b)) whatsoever, which will continue to be allowed at no cost.

Accordingly, the Exchange is proposing to amend Rule 7018(a)(1)–(3) to note: (1) That members executing a Midpoint Extended Life Order will be assessed a charge of $0.0000 per share executed in the month of July 2018 if the member executes at least 250,000 shares in Midpoint Extended Life Orders in June 2018; and (2) that all other members will be assessed a fee of $0.0006 per share executed, for executions of Midpoint Extended Life Orders in securities priced $1 or more.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [8]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [9] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[10] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [11]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [12]

The proposed $0.0006 per share executed fee is reasonable because the Exchange has considered the nature of the market in Midpoint Extended Life Orders, the need to assess a fee to help cover the costs of supporting trading on Nasdaq, and the Exchange's desire to continue to promote use of Midpoint Extended Life Orders on the Exchange. Taking these factors into consideration, the Exchange has determined that $0.0006 per share executed is appropriate. The Exchange currently assess [sic] a fee of $0.0007 per share executed for certain TFTY Orders.[13] The Exchange also assesses $0.0007 per share executed for QCST and QDRK orders, except for QCST orders that execute on Nasdaq BX for which there is no charge or credit.[14] Thus, the lower fee is similar to existing fees for Orders executed on the Exchange and may promote use of Midpoint Extended Life Orders and consequently the quality of the market in Midpoint Extended Life Orders. The Exchange also notes that a competitor exchange assesses a fee of $0.0009 per share executed for both adding and removing all non-displayed liquidity in securities priced $1 or more.[15]

As discussed extensively in its proposal,[16] the Exchange believes that the Midpoint Extended Life Order is consistent with the Act because it is emblematic of a core function of a national securities exchange, namely matching buyers and sellers of securities on a transparent and well-regulated market, and helping these buyers and sellers come together to receive the best execution possible. The Exchange achieves this by permitting Midpoint Extended Life Orders to execute solely against other Midpoint Extended Life Orders at the midpoint of the NBBO in return for providing market-improving behavior in the form of a longer-lived midpoint order. Thus, the Exchange believes that it is important for participants using Midpoint Extended Life Orders to have a deep and liquid market. Applying a lower fee than the $0.0030 per share executed that the Exchange assesses for removing resting midpoint liquidity should provide incentive to market participants to use Midpoint Extended Life Orders while also allowing the Exchange to recoup some of the costs it incurs in offering the Order.

The Exchange also believes that allowing transactions of Midpoint Extended Life Orders at no cost in July 2018 is reasonable because it currently offers them at no cost. In addition, the Exchange does not charge a fee for transactions in Orders with a RTFY routing Order Attribute.[17] Such an Order must meet the definition of Designated Retail Order, which requires, among other things, that the Order not originate from a trading algorithm or any other computerized methodology.[18] Thus, allowing transactions of the RTFY Order Attribute at no cost is designed to promote the Exchange as a venue for retail investor Orders. Likewise, the Exchange is proposing to allow transactions in Midpoint Extended Life Orders at no cost in July 2018 to promote use of such Orders and consequently the quality of the market in Midpoint Extended Life Orders.

The Exchange believes that the proposed fees are an equitable allocation and are not unfairly discriminatory because the Exchange

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[9] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[10] *See NetCoalition,* at 534–535.

[11] *Id.* at 537.

[12] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[13] *See* Rule 7018(a)(1)–(3).

[14] *Id.*

[15] *See* Investors Exchange Fee Schedule, available at: *https://iextrading.com/trading/fees/.*

[16] *See* Securities Exchange Act Release No. 81311 (August 3, 2017), 82 FR 37248 (August 9, 2017) (SR–NASDAQ–2017–074).

[17] RTFY is a routing option available for an order that qualifies as a Designated Retail Order under which orders check the System for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the System routing table. If shares remain unexecuted after routing, they are posted to the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. RTFY is designed to allow orders to participate in the opening, reopening and closing process of the primary listing market for a security. *See* Rule 4758(a)(1)(A)(v)b.

[18] *See* Rule 7018.

will apply the same fee to all similarly situated members. The Midpoint Extended Life Order may be used by any market participant that is willing to satisfy the requirements of the Order Type and meet the volume requirement therefore qualify for the proposed zero fee tiers. Moreover, members not interested in using Midpoint Extended Life Orders will continue to have the ability to enter midpoint Orders in the Nasdaq System, which have both fees and credits associated with their execution.[19] The Exchange is assessing fees for transactions in Midpoint Extended Life Orders beginning July 2, 2018 and providing a limited time during which transactions in Midpoint Extended Life Orders may [sic] done at no cost. The proposed $0.0006 per share executed fee is lower than most other fees assessed for executions, which is reflective of the beneficial nature of the type of Order. Any member may take advantage of the lower fee by using the Order Type. Similarly, members will receive no charge in the month of July 2018 if it meets the 250,000 share execution requirement of the tier. The Exchange believes that 250,000 shares executed is a modest level that is attainable by any member that chooses to enter Midpoint Extended Life Orders.

The Exchange believes that the zero fee tier for July 2018, which is based on the number of shares in Midpoint Extended Life Order executed in June 2018, is an equitable allocation and is not unfairly discriminatory because the Exchange has provided adequate notice of the changes to all members so that they may adjust their trading behavior, and any member may transact in Midpoint Extended Life Orders. Thus, all members may execute 250,000 shares or more in Midpoint Extended Life Orders in June 2018 to qualify for the zero cost tier in July 2018. The Exchange also applies qualification criteria for rebates under Rule 7014 that are based on the prior month's activity. Specifically, the DLP program under Rule 7014(f) provides three rebates that have qualification criteria based on the level of ADV it had in the prior month.[20]

Last, the Exchange is not assessing a charge for executions in Midpoint Extended Life Orders in securities priced below $1 because there are very few executions in such Orders relative to transactions in Midpoint Extended Life Orders in securities priced at $1 or greater. Allowing such transactions at no cost will help promote a deeper market in Midpoint Extended Life Orders in securities priced below $1. Thus, the Exchange believes that the no cost tier in Midpoint Extended Life Orders in securities priced below $1 remains an equitable allocation and is not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposal to assess no fee for certain executions of Midpoint Extended Life Orders and a modest fee of $0.0006 per share executed will not place any burden on competition, but rather will help ensure continued growth in the use of Midpoint Extended Life Orders by making such Orders attractive to members that seek to execute at the midpoint with like-minded members, while also allowing the Exchange to recoup some of the costs associated with offering the Order Type. The proposal also reduces burdens on members associated with the Exchange applying fees to an Order Type for which fees have not been assessed. The new fee tiers will help members transition to fee liable transactions by providing an opportunity to avoid paying a fee for a transaction in Midpoint Extended Life Orders in July 2018 if they choose to provide 250,000 or more shares executed in Midpoint Extended Life Orders for the month of June 2018. To the extent the proposal is not successful in promoting liquidity in Midpoint Extended Life Orders, it would have no meaningful impact on competition as few transactions in Midpoint Extended Life Orders would occur. In sum, if the proposal to assess the new fee tiers for executions of Midpoint Extended Life Orders is unattractive to market participants, it is likely that the Exchange will not gain any market share and may lose market share. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21]

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–NASDAQ–2018–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–047. This file number should be included on the subject line if email is used. To help the

[19] Based on whether the member is removing or adding liquidity. *See* Rule 7018(a).

[20] *See* Rule 7014(f)(5)(A).

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–047, and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14109 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83521; File No. SR–CboeEDGA–2018–011]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.6, Definitions and Rule 11.8, Order Types

June 26, 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, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to (i) amend paragraph (n) of Exchange Rule 11.6, Routing/Posting Instructions to add a new optional order instruction to be known as Non-Displayed Swap; and (ii) make a related change to description of Limit Orders and MidPoint Peg Orders under Exchange Rule 11.8. The proposed amendments are identical to the rules of Cboe EDGX Exchange, Inc. (''EDGX'')[5] and substantially similar to the rules of the Nasdaq Stock Market LLC (''Nasdaq'')[6] and NYSE Arca, Inc. (''Arca'').[7]

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the Exchange's principal office and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Amend paragraph (n) of Exchange Rule 11.6, Routing/Posting Instructions to add a new optional order instruction to be known as Non-Displayed Swap; and (ii) make a related change to description of Limit Orders and MidPoint Peg Orders under Exchange Rule 11.8. These proposed amendments are identical to the rules of EDGX[8] and substantially similar to the rules of Nasdaq and Arca.[9]

The proposed Non-Displayed Swap (''NDS'') instruction would provide orders with a Non-Displayed[10] instruction resting on the EDGA Book[11] with a greater ability to receive an execution when that resting order is locked by an incoming order (*e.g.,* the price of the resting non-displayed order is equal to the price of the incoming order that is to be placed on the EDGA Book). The NDS instruction would be an optional order instruction that would allow Users[12] to have their resting non-displayed orders execute against an incoming order with a Post Only instruction rather than have it be locked by the incoming order. NDS would be defined as an instruction that may be attached to an order with a Non-Displayed instruction that when such order is resting on the EDGA Book and would be locked by an incoming order with a Post Only instruction that does not remove liquidity pursuant to paragraph (4) of Exchange Rule 11.6(n),[13] the order with a NDS

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* EDGX Rules 11.6(n)(7), 11.8(b)(7) and 11.8(d)(5); *see also* Securities Exchange Act Release No. 80841 (June 1, 2017), 82 FR 26559 (June 7, 2017), (Notice of Filing and Immediate Effectiveness To Add a New Optional Order Instruction Known as Non-Displayed Swap).

[6] *See* Nasdaq Rule 4703(m) (defining the Trade Now order modifier); *see also* Securities Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (Notice of Filing and Immediate Effectiveness of Proposed Rule change to Amend Rule 4702 and Rule 4703 to Add a ''Trade Now'' Instruction to Certain Order Types).

[7] *See* Arca Rule 7.31–E(d)(2)(B) (describing the Non-Display Remove Modifier); *see also* Securities Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (Order Approving Proposed Rule change Adopting New Equity Trading Rules Relating to Orders and Modifiers and Retail Liquidity Program To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform).

[8] *See supra* note 5.

[9] *See supra* notes 6 and 7.

[10] *See* Exchange Rule 11.6(e)(2).

[11] *See* Exchange Rule 1.5(d).

[12] *See* Exchange Rule 1.5(ee).

[13] Under Exchange Rule 11.6(n)(4), an order with a Post Only instruction will remove contra-side liquidity from the EDGA Book if the order is an order to buy or sell a security priced below $1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, the Exchange will use the highest possible

Continued

instruction is converted to an executable order and will remove liquidity against such incoming order. An order with a NDS instruction would not be eligible for routing pursuant to Exchange Rule 11.11, Routing to Away Trading Centers. The proposed NDS instruction assists in the avoidance of an internally locked EDGA Book (though such lock would not be displayed by the Exchange) [14] by facilitating the execution of orders that would otherwise lock each other.

The following example illustrates the operation of an order with a NDS instruction. Assume the National Best Bid and Offer is $10.00 by $10.04. There is a Limit Order to buy with a Non-Displayed instruction resting on the EDGA Book at $10.03. An order to sell with a Post Only instruction priced at $10.03 is entered. Under current behavior, the incoming sell order with a Post Only instruction would post to the EDGA Book because it would not receive sufficient price improvement.[15] This would result in the EDGA Book being internally locked.[16] As proposed, if the Limit Order to buy with Non-Displayed instruction also included a NDS instruction, the orders would instead execute against each other at $10.03, with the resting buy order with the NDS instruction becoming the remover of liquidity and the incoming sell order with a Post Only instruction becoming the liquidity provider.

Assume the same facts as above, but that a Limit Order with a Non-Displayed instruction to buy at $10.03 (''Order A'') is also resting on the EDGA Book with time priority ahead of the Limit Order to buy with a Non-Displayed instruction mentioned above (''Order B''). Like above, an order to sell with a Post Only instruction priced at $10.03 is entered. Under current behavior, the incoming sell order with a Post Only instruction would post to the EDGA Book because the value of such execution against the resting buy interest when removing liquidity does not equal or exceed the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. As proposed, if Order B also included a NDS instruction, the incoming sell order would execute against Order B and such order would become the remover of liquidity and the incoming sell order with a Post Only instruction would become the liquidity provider. In such case, Order A cedes time priority to Order B because Order A did not also include a NDS instruction and thus the User that submitted Order A did not indicate the preference to be treated as the remover of liquidity in favor of an execution; instead, by not using NDS, a User indicates the preference to remain posted on the EDGA Book as a liquidity provider.[17] However, if the incoming sell order was priced at $10.02, it would receive sufficient price improvement to execute upon entry against all resting buy Limit Orders in time priority at $10.03.[18]

If the order with a NDS instruction is only partially executed, the unexecuted portion of that order remains on the EDGA Book and maintains its priority, as is the case today for an order that is partially executed and not cancelled by the User.[19] The Exchange is proposing to make the NDS instruction available to Limit Orders [20] that include a Non-Displayed instruction and MidPoint Peg Orders.[21] The NDS instruction would not be available to all other order types provided by the Exchange under its Rule 11.8, as the execution of these order types is governed by other Exchange rules and the NDS instruction would be inconsistent with the use of those order types.

The Exchange notes that similar functionality exists on Nasdaq and Arca. Nasdaq refers to their functionality as the ''Trade Now'' instruction [22] and Arca refers to their functionality as the ''Non-Display Remove Modifier''.[23] On Arca, a Limit Non-Displayed Order may be designated with a Non-Display Remove Modifier. If so designated, a Limit Non-Displayed Order to buy (sell) will trade as the remover of liquidity with an incoming Adding Liquidity Only Order (''ALO Order'') to sell (buy) that has a working price equal to the working price of the Limit Non-Displayed Order.[24] On Nasdaq, Trade Now is an order attribute that allows a resting order that becomes locked by an incoming Displayed Order to execute against the available size of the contra-side locking order as a liquidity taker, and any remaining shares of the resting order will remain posted on the Nasdaq Book with the same priority.[25] Nasdaq requires the contra-side order to be display eligible, while the Exchange proposes to enable an order with a NDS instruction to remove liquidity regardless of whether the incoming order would have ultimately been eligible for display consistent with Arca's Non-Display Remove Modifier.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in

rebate paid and highest possible fee charged for such executions on the Exchange.

[14] *See* Exchange Rule 11.10(a)(4)(C).

[15] *Id.* [sic]

[16] In the event the incoming order with a Post Only instruction was to be displayed, it would post and display at $10.03 and the resting buy order with a Non-Displayed instruction would not execute against it or subsequent incoming sell orders at $10.03 for so long as the sell order was displayed on the Exchange. *See* Exchange Rule 11.10(a)(4)(C) and (D).

[17] Should the Limit Order to buy at $10.03 with time priority (*i.e.,* Order A) be displayed on the EDGA Book, the incoming sell order at $10.03 with a Post Only instruction will not execute against the non-displayed buy order with a NDS instruction because displayed orders have priority over non-displayed orders. In such a case, the incoming Limit Order would be handled as it is today in accordance with existing Exchange rules. *See, e.g.,* Exchange Rules 11.6(l), 11.9, and 11.10(a).

[18] The execution occurs here because the value of the execution against the buy order when removing liquidity exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. *See supra* note 13.

[19] *See* Exchange Rule 11.9(a)(5).

[20] *See* Exchange Rule 11.8(b).

[21] *See* Exchange Rule 11.8(d); the Exchange notes that NDS can be combined with other instructions also available to Limit Orders with a Non-Displayed instruction, such as the Discretionary Range instruction, the Minimum Execution Quantity instruction and the Pegged instruction, as such terms are defined in Exchange Rules 11.6(d), 11.6(h) and 11.6(j), respectively.

[22] *See* Nasdaq Rule 4703(m). *See also* Securities and Exchange Act Release No. 79282 (November 10, 2016), 81 FR 81219 (November 17, 2016) (SR–Nasdaq–2016–156) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 4703 and Rule 4703 to add a ''Trade Now'' Instruction to Certain Order Types).

[23] *See* Arca Rule 7.31–E(d)(2)(B). *See also* Securities and Exchange Act Release No. 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR–NYSEArca–2015–56) (Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 Thereto, Adopting New Equity Trading Rules Relating to Orders and Modifiers and the Retail Liquidity Program To Reflect the Implementation of Pillar, the Exchange's New Trading Technology Platform) (including the Non-Display Remove Modifier).

[24] *See* Arca Rule 7.31–E(d)(2)(b).

[25] Arca provides their Non-Display Remove Modifier to their Mid-Point Liquidity Orders (''MPL Orders'') designated Day and MPL–ALO Orders and Arca Only Orders. Nasdaq's Trade Now functionality is available to Price to Comply Orders, Price to Display Orders, Non-Displayed Orders, Post-Only Orders, Midpoint Peg Post-Only Orders, and Market Maker Peg Orders. To the extent the NDS instruction is only available to Limit Orders with a Non-Displayed instruction and MidPoint Peg Orders, the Exchange notes that the NDS instruction will apply to different order types than Arca's Non-Display Remove Modifier and Nasdaq's Trade Now functionality.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest by offering Users optional functionality that will facilitate the execution of orders that would otherwise remain unexecuted, thereby increasing the efficient functioning of the Exchange. The NDS instruction is an optional feature that is intended to reflect the order management practices of various market participants. The proposed NDS instruction assists in the avoidance of an internally locked EDGA Book by facilitating the execution of orders that would otherwise post, or remain posted, to the EDGA Book.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. On the contrary, the Exchange believes the proposed rule change promotes competition because it will enable the Exchange to offer functionality substantially similar to that offered by Nasdaq and Arca (in addition to the fact that such functionality is identical to that already offered by the Exchange's affiliate, EDGX).[28] Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As the NDS feature will be equally available to all Users, the Exchange does not believe the proposed rule change will result in any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received 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[29] and subparagraph (f)(6) of Rule 19b–4 thereunder.[30]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[31] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing, EDGA requested that the Commission waive the 30-day operative delay so that the Exchange can implement the proposed rule change promptly after filing. The Exchange noted that the proposed functionality is optional, may lead to increased order interaction on the Exchange, and is identical to functionality already provided on EDGX. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, as such waiver will permit the Exchange to update its rule without delay so that it provides the same optional NDS functionality as is available on EDGX and potentially increase order interaction on the Exchange. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[32]

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–CboeEDGA–2018–011 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–CboeEDGA–2018–011. 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–CboeEDGA–2018–011, and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14108 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

[28] *See supra* notes 5–7.

[29] 15 U.S.C. 78s(b)(3)(A)(iii).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83527; File No. SR–NASDAQ–2018–048]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Exchange's Penny Pilot Program

June 26, 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 25, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 5 (Minimum Increments) [3] of the rules of The Nasdaq Options Market (''NOM'') to extend through December 31, 2018 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is set forth below. Proposed new language is *italicized* and proposed deleted language is in brackets.

* * * * *

The Nasdaq Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on [June 30, 2018] *December 31, 2018* or the date of permanent approval, if earlier, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's website.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [January 1, 2018] *July 1, 2018.*

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website at *http://nasdaqomxbx.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 purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through December 31, 2018 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2018.[5]

The Exchange proposes to extend the time period of the Penny Pilot through December 31, 2018 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2018. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot 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 potential increase in quote traffic.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the NASDAQ Options Market (''NOM''), unless otherwise noted.

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 82365 (December 19, 2017), 82 FR 61070 (December 26, 2017) (SR–NASDAQ–2017–130).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2017 through May 31, 2018 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through December 31, 2018 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2018, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange 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.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] 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)[11] normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] 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.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

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)[16] 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–NASDAQ–2018–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–048. 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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 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.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[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] 15 U.S.C. 78s(b)(2)(B).

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–NASDAQ–2018–048 and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14118 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83525; File No. SR–BOX–2018–20]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Amend BOX Rule 7300 (Preferenced Orders) To Provide an Additional Allocation Preference to Preferred Market Makers

June 26, 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 13, 2018, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 7300 (Preferenced Orders) to provide an additional allocation preference to Preferred Market Makers. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rule 7300 (Preferenced Orders) to provide an additional allocation preference to Preferred Market Makers. Specifically, the Exchange is proposing to provide Preferred Market Makers with a small size order allocation preference.

Background

The Exchange has rules to allow BOX Options Participants (''Participants'') to submit orders for which a Market Maker is designated to receive an allocation preference on the Exchange (''Preferenced Orders'').[3] The rules provide for the enhanced allocation to the Preferred Market Maker[4] only when the Preferred Market Maker is quoting at NBBO.

A Preferenced Order is any order submitted by a Participant to the Exchange for which a Preferred Market Maker is designated to receive execution priority, with respect to a portion of the Preferenced Order, upon meeting certain qualifications.[5] Preferenced Orders are submitted by a Participant by designating an order as such and identifying a Preferred Market Maker when entering the order.

In order for a Preferred Market Maker to be eligible to receive Preferenced Orders, they must maintain heightened quoting activity. Specifically, a Preferred Market Maker must maintain a continuous two-sided market, throughout the trading day, in 99% of the non-adjusted option series of each class for which it accepts Preferenced Orders, for 90% of the time the Exchange is open for trading in each such option class.[6] A Preferred Market Maker is not required to quote in intra-day add-on series or series that have a time to expiration of nine months or more in the classes for which it receives Preferenced Orders.

Small Size Orders

The Exchange is now proposing to amend Rule 7300 to provide an additional allocation preference to Preferred Market Makers. Specifically, the Exchange is proposing that small size Preferenced Orders will be allocated in full to the Preferred Market Maker, subject to certain conditions described below.[7] Small size orders are defined as five (5) or fewer contracts.

In order for the Preferred Market Makers to be allocated the small size order, they must be quoting at the NBBO when they receive the Preferenced Order. As is the case with the current allocation of Preferenced Orders, all orders from the account of Public Customers, if any, will continue to be allocated for execution against the Preferenced Order first. The Preferred Market Maker will only receive the small size order allocation if there are contracts remaining after any Public Customer orders receive an allocation against the Preferenced Order. A Preferred Market Maker may only be allocated up to the size of their quote.

The Exchange will monitor the frequency in which Preferred Market Makers receive the small size order allocation. Specifically, the Exchange will review the proposed provision quarterly and will maintain the small order size at a level that will not allow small size orders executed by Preferred Market Makers to account for more than 40% of the volume executed on the Exchange.

The Exchange does not believe the proposal raises any new or novel issues. Currently, the vast majority of options exchanges provide a small lot allocation preference to specialists,[8] with the

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 7300.

[4] The term ''Preferred Market Maker'' means a Market Maker designated as such by a Participant with respect to an order submitted by such Participant to BOX. *See* Rule 7300(a)(2).

[5] *See* Rule 7300.

[6] *See* Rule 7300(a)(2).

[7] *See* proposed Rule 7300(e).

[8] Cboe EDGX Rule 21.8(g)(2) provides a small lot allocation preference to Primary Market Makers, Nasdaq ISE Rule 713.01(c) provides a small lot allocation preference for Primary Market Makers, NYSE American Rule 964.2NY provides a small lot allocation preference to the Primary Specialist, Nasdaq BX Chap. VI, Section 10(c)(2) provides a small lot allocation preference for the Lead Market Maker, Nasdaq GEM [sic] Rule 713.01(c) provides a small lot allocation preference for Primary Market

majority of those exchanges restricting the number of specialists to one per class. The Exchange's proposal differs in that the Exchange is expanding the availability of the small lot allocation preference to all eligible Preferred Market Makers. The Exchange believes that providing this benefit to multiple Preferred Market Makers will be beneficial to the Exchange and the market by providing an incentive for vigorous quoting by multiple market makers per class since a Preferred Market Maker must be quoting at NBBO in order to receive the small lot allocation preference. Additionally, as explained above, Preferred Market Makers are responsible for heightened quoting obligations that must be met in order for them to receive Preferenced Orders.

Further, the numerous options exchanges that provide exclusive specialist assignments afford the opportunity for a market maker to be the sole specialist in different classes on multiple exchanges. This can, and most likely does, result in a market maker having an exclusive specialist assignment in nearly every option class spread across multiple exchanges. Therefore, they are entitled to a small lot allocation preference in every option class. As a result of this, an order flow provider can direct small lot orders to a specific specialist by submitting the order to the exchange where the specialist is exclusive for that specific class and the specialist would have priority over all orders and quotes except those of Public Customers to trade against the small lot. The Exchange does not believe that providing the small lot allocation preference to all qualified Preferred Market Makers will alter this current behavior because, under the proposal, an order flow provider can achieve the same result by preferencing the order on BOX to a specific Preferred Market Maker.

In addition, the Exchange notes that it has increased quoting requirements for market makers to be eligible to receive the small lot allocation preference. Specifically, a Preferred Market Maker must maintain a continuous two-sided market, pursuant to Rule 8050(c)(1), throughout the trading day, in 99% of the non-adjusted option series of each class for which it accepts Preferenced Orders, for 90% of the time the Exchange is open for trading in each such option class.[9] The Exchange notes that these quoting requirements are higher than another exchange that currently provides a small-lot allocation preference.[10]

Allocation

Currently, the Exchange's Rules provide that at the final price level, where the remaining quantity of the Preferenced Order is less than the total quantity of orders on the Exchange available for execution, after all orders for the account of Public Customers, if any, are allocated against the Preferenced Order, then the Preferred Market Maker receives its allocation.[11] Specifically, a Preferred Market Maker shall receive an allocation equal to forty percent (40%) of the remaining quantity of the Preferenced Order. However, if only one other executable, non-public Customer order (in addition to the quote of the Preferred Market Maker) matches the Preferenced Order at the final price level, then the allocation to the Preferred Market Maker shall be equal to fifty percent (50%) of the remaining quantity of the Preferenced Order.

The Exchange is now proposing to amend the Preferred Market Maker allocation when there is only one other non-Public Customer that matches the Preferenced Order at the final price level. Specifically, the Exchange is proposing to increase the Preferred Market Maker's allocation to 60% when there is only one other non-Public Customer that matches the Preferenced Order at the final price level. The Exchange notes that other exchanges currently provide a 60% allocation when there is only one other Participant that matches the Preferenced Order at the final price level.[12]

The quantity of the allocation to the Preferred Market Maker will continue to be limited by the total quantity of the Preferred Market Maker quote. Executions are allocated in numbers of whole contracts and, to ensure the allocation priority afforded to Preferred Market Makers does not exceed the applicable 40% or proposed 60%, allocations of fractional contracts to Preferred Market Makers in the Preferred allocation step are rounded down to the nearest whole number, which is not less than one (1) contract. Legging Orders will not be considered when determining whether the Preferred Market Maker is allocated 40% or the proposed 60% in this step. As a result, in no case will a Preferred Market Maker receive an allocation preference (above what it would otherwise receive if executed in normal price-time priority) in excess of 40% of the remaining quantity of the Preferenced Order after Public Customer orders are filled (or the proposed 60% if only one other non-Public Customer matches) at the final price level.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[13] in general, and Section 6(b)(5) of the Act,[14] 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 mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes this proposed rule change is a reasonable modification designed to provide incentives and enhanced allocation to Preferred Market Makers when it is quoting at NBBO. The Exchange also believes that the proposed rule change will increase the number of transactions on the Exchange by attracting additional order flow to the Exchange, which will ultimately enhance competition and provide customers with additional opportunities for execution. The Exchange believes these changes are consistent with the goals to remove impediments to and to perfect the mechanism for a free and open market and a national market system. Specifically, the Exchange believes that the proposal will result in increased liquidity available at improved prices, with more competitive pricing outside the control of any single Participant. The proposed rule change should promote and foster competition.

The Exchange believes the proposed changes to the Preferenced Order allocation to provide a small lot

Makers, Nasdaq MRX provides a small lot allocation preference for Primary Market Makers, Nasdaq PHLX Rule 1014(g)(vii)(B)(1)(a) provides a small lot allocation preference to specialist, MIAX Rule 514(g)(2) provides a small lot allocation preference for the Primary Lead Market Maker, NYSE Arca Rule 6.76A–O(a)(1)(B) provides a small lot allocation preference for the Lead Market Maker, and Cboe Rule 6.45(c) provides a small lot allocation preference for the Designated Primary Market Makers or the Lead Market Maker.

[9] For purposes of this requirement, a Preferred Market Maker is not required to quote in intra-day add-on series or series that have a time to expiration of nine months or more in the classes for which it receives Preferenced Orders and a Market Maker may still be a Preferred Market Maker in any such series if the Market Maker otherwise complies with Rule 7300(a)(2).

[10] *See* Cboe EDGX Rule 22.6(d).

[11] *See* Rule 7300(c)(2).

[12] *See* MIAX Rule 514(g); *see also* ISE Supplementary Material .03 to Rule 713.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

allocation preference is an improvement over the current allocation algorithm, and will benefit all market participants submitting Preferenced Orders on the Exchange. As a result of the proposed changes, the Exchange believes that existing and additional Participants will use Preferenced Orders to increase the number of orders that are submitted to the Exchange. Additionally, the Exchange believes that the proposed change to the Preferenced Order allocation algorithm will encourage greater participation by Market Makers to provide quotes on the Exchange as Preferred Market Makers. These additional responses should encourage greater competition on the Exchange, which should, in turn, benefit and protect investors and the public interest through the potential for greater volume of orders and executions.

The proposed rule change continues to provide priority of Public Customer orders over Preferred Market Makers at the same price. The Exchange believes this priority is consistent with the purposes of the Act. The Exchange believes the Preferenced Order allocation proposal is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it recognizes the unique status of Pubic Customers in the marketplace by ensuring Public Customers maintain priority before any allocations afforded to Preferred Market Makers.

The Exchange believes that the proposed Preferenced Order allocation changes are reasonable, equitable and not unfairly discriminatory. Giving Preferred Market Makers the small lot allocation preference and allocation priority of 60% of the remaining quantity of the Preferenced Order in certain circumstances will provide important incentives for Preferred Market Makers to provide liquidity on BOX, which provides greater opportunity for executions, tighter spreads, and better pricing for all Participants. While the Commission has, in the past, been concerned about locking up larger portions of order flow from intra-market price competition, the Exchange believes that the proposed preferred allocation methods adequately balance the aim of rewarding Preferred Market Makers by limiting the volume of small size orders executed by Preferred Market Makers to account for no more than 40% of the volume executed on the Exchange.

The Exchange believes that the Preferred Market Maker allocation is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it strikes a reasonable balance between encouraging vigorous price competition and rewarding Market Makers for their unique duties. In order to receive an allocation preference, Preferred Market Makers must meet heightened quoting requirements as Market Makers, and also be quoting at the NBBO at the time the Preferenced Order is received. Heightened quoting requirements mean that Preferred Market Makers must maintain a continuous two-sided market throughout the trading day, in 99% of the non-adjusted option series of each class for which it accepts Preferenced Orders, for 90% of the time the Exchange is open for trading in each such option class.[15] Overall, the proposed changes to the Preferred Market Maker allocations represent a careful balancing by the Exchange with regard to the rewards and obligations of various types of market participants. The Exchange believes these requirements of Preferred Market Makers will provide an incentive for Market Makers to assume these additional responsibilities beyond those already required for Market Makers, which will facilitate improved trading opportunities on BOX for all Participants.

The Exchange believes this proposed rule change is a reasonable modification designed to provide further incentives and enhanced allocation to a Preferred Market Maker when it is quoting at NBBO. The Exchange also believes that the proposed rule change will increase the number of transactions on the Exchange by attracting additional activity to the Exchange, which will ultimately enhance competition and provide customers with additional opportunities for execution.

The Exchange believes the proposed changes to the Preferenced Order allocations are an improvement over the current allocation algorithm, and will benefit all market participants submitting Preferenced Orders on the Exchange. Additionally, the Exchange believes that the proposed Preferenced Order allocation algorithm will encourage greater participation by Market Makers to provide quotes on the Exchange as Preferred Market Makers. These additional responses should encourage greater competition on the Exchange, which should, in turn, benefit and protect investors and the public interest through the potential for greater volume of orders and executions.

For the foregoing reasons, the Exchange believes this proposal is a reasonable modification to its rules, designed to facilitate increased interaction of orders on the Exchange, and to do so in a manner that ensures a dynamic, real-time trading mechanism that maximizes opportunities for trading executions of orders. The Exchange believes it is appropriate and consistent with the Act to adopt the proposed changes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed as a competitive response to the options exchanges with specialists. The Exchange believes that the proposed change will allow the Exchange to further compete with competitors that provide specialist assignments. With respect to intra-market competition, the Exchange believes that the proposed change will promote competition by allowing multiple competing Preferred Market Makers per class.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[15] For purposes of this requirement, a Preferred Market Maker is not required to quote in intra-day add-on series or series that have a time to expiration of nine months or more in the classes for which it receives Preferenced Orders and a Market Maker may still be a Preferred Market Maker in any such series if the Market Maker otherwise complies with Rule 7300(a)(2).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2018–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2018–20. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2018–20, and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14112 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 83 FR 29582, 25 Jun 2018.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, June 28, 2018 at 10:00 a.m.

CHANGES IN THE MEETING: The following item will not be considered during the Open Meeting on Thursday, June 28, 2018:

- Whether the Commission should enter into a revised memorandum of understanding with the Commodity Futures Trading Commission that would update and supersede the existing regulatory coordination memorandum of understanding between the two agencies.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 28, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–14280 Filed 6–28–18; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83524; File No. SR–NYSEAMER–2018–29]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE American Options Fee Schedule

June 26, 2018

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 11, 2018, NYSE American LLC (''Exchange'' or ''NYSE American'') 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 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 modify the NYSE American Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective June 11, 2018.[4] The proposed 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 purpose of this filing is to modify the Fee Schedule, effective June 11, 2018. Specifically, the Exchange proposes to modify certain transaction fees.

Rates To Incentivize Non-Customer, Non-Market Maker Volume

First, the Exchange proposes to eliminate the reduced rates available to ATP Holders that transact a certain amount of Electronic volume as ''Non-Customer, Non-Market Maker'' (*i.e.,* Electronic volume as a Broker-Dealer, Firm, Non-NYSE American Market Maker, or Professional Customer). Currently, an ATP Holder that transacts Electronic volume as a Non-Customer, Non-Market Maker at least 0.05% above that ATP Holder's 2nd Quarter 2017 Non-Customer, Non-Market Maker Electronic volume is charged $0.36 per contract (as opposed to $0.50) for Penny Pilot Issues and $0.60 (as opposed to $0.75) per contract in Non-Penny Pilot Issues.[5] The Exchange proposes to

[4] The Exchange originally filed to amend the Fee Schedule on June 1, 2018 (SR–NYSEAmer–2018–25) and withdrew such filing on June 11, 2018.

[5] Such calculations exclude volume in CUBE, QCC, Strategy Executions, or volume attributable to

Continued

eliminate these reduced rates and references thereto from the Fee Schedule.[6]

Rates for Manual Transaction (*i.e.,* Executed in Open Outcry)

Next, the Exchange proposes to modify the fees for Manual transactions assessed on NYSE American Options Market Makers (''Market Makers'') and Specialists and e-Specialists (collectively, ''Specialists'').[7] The Exchange proposes to charge Market Makers $0.25 per contract (up from $0.20) and to charge Specialists $0.18 per contract (up from $0.13).[8]

The Exchange also proposes to charge a reduced rate for Manual transactions to those Market Makers or Specialists that participate in the Prepayment Program, as outlined in the Fee Schedule.[9] Specifically, participating Market Makers would be charged $0.23 per contract and participating Specialists would be charged $0.17 per contract, and such changes and references thereto would be set forth in the Fee Schedule.[10] For additional clarity, the Exchange also proposes to modify Section I.D. (Prepayment Program) to make clear that participation in such program would entitle participants to these proposed reduced manual rates.[11]

Complex Surcharge for Non-Customer Complex Orders

Currently, the exchange applies a $0.10 per contract surcharge to any Electronic Non-Customer Complex Order that executes against a Customer Complex Order, regardless of whether the execution occurs in a Complex Order Auction (the ''Surcharge'').[12] The Exchange offers a reduced per contract Surcharge (of $0.07) to those ATP Holders that achieve at least 0.20% of TCADV of Electronic Non-Customer Complex Orders in a month. The Exchange proposes to increase the Surcharge to $0.12. In addition, for ATP Holders that continue to qualify for the reduced Surcharge, the Exchange proposes to increase this reduced Surcharge to $0.10 per contract.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange also believes that eliminating the reduced rates for certain Non-Customer/Non-Market Maker volume is reasonable, equitable, and non-discriminatory as it applies to all similarly situated participants. The Exchange notes that the reduced rate did not generate the desired result of Non-Customer/Non-Market Maker volume being directed to the Exchange, and therefore the Exchange believes it is reasonable to eliminate this incentive fee.

The Exchange believes that the proposed modifications to the fees charged to Market Makers for Manual transactions are reasonable, equitable, and not unfairly discriminatory because the proposed rates are consistent with rates charged for other Non-Customer volume (*i.e.,* volume executed as Broker-Dealer, Firm, Non-NYSE American Market Maker, or Professional Customer). The Exchange likewise believes that the proposed (more favorable) rates charged to Specialists for Manual transactions are reasonable, equitable, and non-discriminatory, because Specialists have a heightened quoting obligations and higher overhead costs related to such obligations. The Exchange also notes that the proposed rates for Manual transactions are consistent with rates charged on other options markets.[16]

The Exchange also believes the reduced Manual transaction rates for ATP Holders that are participating in the Prepayment Program are reasonable, equitable, and non-discriminatory, as it is available to all similarly situated participants, and is designed to incent ATP Holders to participate in the Prepayment Program. Any NYSE American Options Market Makers may elect to participate (or elect not to participate) in any of the Prepayment Programs. The Prepayment Programs are designed to incent Market Makers to commit to directing their order flow to the Exchange, which would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads, even to those market participants that are not eligible for the Programs. Thus, the Exchange believes that introducing additional incentives to encourage participation in the Prepayment Programs is reasonable, equitable and not unfairly discriminatory to other market participants because non-Market Makers and other market participants will benefit from the anticipated greater capital commitment and resulting liquidity on the Exchange. To the extent that participation in the Prepayment Program is increased, all market participants would benefit from increased liquidity on the Exchange by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

The Exchange further believes the increase in the Complex Order Surcharge is reasonable, equitable, and non-discriminatory, as it is similar to charges on other exchanges, and is charged to all similarly situated non-Customers.[17] Applying the Surcharge to all market participant orders except Customer orders is equitable and not unfairly discriminatory because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of Specialists and Market Makers in turn

orders routed to another exchange in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 991NY. *See* Fee Schedule, I.A., note 7, *available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[6] *See* proposed Fee Schedule, Section I.A. The Exchange notes that rather than delete note 7 to Section I.A. it is replacing the now deleted text with the reduced Manual rate proposed herein. *See, e.g., infra* n. 10.

[7] Specialists and e-Specialist must be registered as Market Makers on the Exchange and are subject to heightened quoting obligations. *See, e.g.,* Fee Schedule, Key Terms and Definitions; *see also* Rules 920NY, 927NY and 927.4NY.

[8] *See* proposed Fee Schedule, Section I.A.

[9] *See* Fee Schedule, Section I.D. (describing Prepayment Program).

[10] *See* proposed Fee Schedule, Section I.A., note 7.

[11] *See* proposed Fee Schedule, Section I.D.

[12] *See* Fee Schedule, Section I.A, note 6. The Surcharge does not apply to executions in CUBE Auctions.

[13] *See* proposed Fee Schedule, Section I.A, note 6. As is the case today, the Surcharge would not apply to executions in CUBE Auctions.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] *See, e.g.,* NYSE Arca Options fee schedule, available here, *https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (charging NYSE Arca Market Makers $0.25 per contract executed manually and charging Lead Market Makers (or LMMs) $0.18 per contract executed manually); BOX options fee schedule, *available here, https://boxoptions.com/regulatory/fee-schedule/* (charging market makers $0.25 per contract to transact manually); and NASDAQ PHLX (''PHLX'') pricing schedule, *available here, http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing* (charging specialists and market makers $0.35 per contract to transact manually).

[17] *See id.,* PHLX pricing schedule (imposing a $0.12 surcharge on certain complex orders); and Cboe fee schedule, *available here, http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* (same).

facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[18] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed changes, particularly the elimination of the incentive for Non-Customer/Non-Market Maker volume and the modification to Manual transaction rates, would not place an unfair burden on competition as it would apply to all similarly-situated market participants. The Exchange also notes that the proposed rates for Manual transactions, as well as the proposed modifications to the Surcharge, are competitive with rates charges by other options exchanges.[19] To the extent that the proposed reduced Manual rates for certain participants in the Prepayment Program make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become NYSE American Options ATP Holders.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[20] of the Act and subparagraph (f)(2) of Rule 19b–4[21] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[22] 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–NYSEAMER–2018–29 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–2018–29. 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–NYSEAMER–2018–29 and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14110 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78f(b)(8).

[19] *See supra* notes 16 and 17.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33137; File No. 812–14764]

Goldman Sachs Trust, et al.

June 27, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act; under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would: (a) Permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, business development companies, as defined in section 2(a)(48) of the Act, and registered unit investment trusts (collectively, ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.[1]

APPLICANTS: Goldman Sachs Trust; Goldman Sachs Trust II; Goldman Sachs

[1] The requested order (''Order'') would supersede an exemptive order issued by the Commission on August 26, 2008, s*ee In the Matter of Goldman Sachs Trust, et al.,* Investment Company Act Release Nos. 28347 (Jul. 31, 2008) (notice) and 28366 (Aug. 26, 2008) (order)) (the ''Prior Order''), with the result that no person will continue to rely on the Prior Order if the Order is granted.

ETF Trust; Goldman Sachs Variable Insurance Trust, each a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series (each a ''Trust,'' and together, the ''Trusts''); and Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; and GS Investment Strategies, LLC (each an ''Adviser''), each registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on April 19, 2017, and amended on November 16, 2017 and April 19, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 23, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: Caroline L. Kraus, Goldman Sachs & Co., LLC, 200 West Street, New York, NY 10282; and Stephen H. Bier, Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036–6797.

FOR FURTHER INFORMATION CONTACT: Stephan N. Packs, Senior Counsel, at (202) 551–6853, or David J. Marcinkus, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order to permit (a) each Fund [2] (each a ''Fund of Funds'') to acquire shares of Underlying Funds [3] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) each Underlying Fund that is a registered open-end management investment company or series thereof, their principal underwriters, and any broker or dealer registered under the 1934 Act to sell shares of the Underlying Funds to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[4] Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[5] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14193 Filed 6–29–18; 8:45 am]

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[2] Applicants request that the order apply not only to the existing series of a Trust (the ''Initial Funds''), but that the order also extend to any future series of a Trust and any other existing or future registered open-end management investment company or series thereof that is part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Trusts and is, or may in the future be, advised by an Adviser or its successor or any other investment adviser controlling, controlled by, or under common control with an Adviser or its successor (together with the Initial Funds, each series a ''Fund,'' and collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[3] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[4] Applicants are not requesting relief for a Fund of Funds to invest in business development companies and registered closed-end investment companies that are not listed and traded on a national securities exchange.

[5] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF or a closed-end fund through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each ETF or closed-end fund that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund of Funds, to sell shares to or redeem shares from the Fund of Funds. This includes, in the case of sales and redemptions of shares of ETFs, the in-kind transactions that accompany such sales and redemptions. Applicants are not seeking relief from Section 17(a) for, and the requested relief will not apply to, transactions where an ETF, business development company, or closed-end fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF, business development company, or closed-end fund, or an entity controlling, controlled by or under common control with the investment adviser to the ETF, business development company, or closed-end fund is also an investment adviser to the Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33136; 812–14879]

Defiance ETFs, LLC, et al.

June 27, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: Defiance ETFs, LLC (the ''Initial Adviser''), a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC, a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on February 26, 2018, and amended on June 19, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 20, 2018 and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Defiance ETFs, LLC, 450 West 42nd Street, #37S, New York, New York 10036; ETF Series Solutions, 615 East Michigan Street, Milwaukee, Wisconsin 53202; Quasar Distributors, LLC, 777 East Wisconsin Avenue, 6th Floor, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6990, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will

[1] Applicants request that the order apply to Defiance Autonomous Future ETF (the ''Initial Fund''), a new series of the Trust, and any additional series of the Trust, and any other open-end management investment company or series thereof (''Future Funds'' and together with the Initial Fund, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested Order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14191 Filed 6–29–18; 8:45 am]

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[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83520; File No. SR–CboeBZX–2018–040]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust

June 26, 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, Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to list and trade shares of SolidX Bitcoin Shares (the ''Fund'') issued by the VanEck SolidX Bitcoin Trust (the ''Trust''), under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),[3] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[4] SolidX Management LLC is the sponsor of the Trust (''Sponsor''). The Trust will be responsible for custody of the Trust's bitcoin. SolidX Management LLC is a wholly-owned subsidiary of SolidX Partners Inc. Delaware Trust Company is the trustee (''Trustee''). The Bank of New York Mellon will be the administrator (''Administrator''), transfer agent (''Transfer Agent'') and the custodian, with respect to cash, (''Cash Custodian'') of the Trust. Foreside Fund Services, LLC will be the marketing agent (''Marketing Agent'') in connection with the creation and redemption of ''Baskets'' [5] of Shares. Van Eck Securities Corporation (''VanEck'') provides assistance in the marketing of the Shares.

The Trust was formed as a Delaware statutory trust on September 15, 2016 and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the Trust's net assets. The Trust's assets will consist of bitcoin [6] held by the Trust utilizing a secure process as described below in ''bitcoin Security and Storage for the Trust''. The Trust will not normally hold cash or any other assets, but may hold a very limited amount of cash in connection with the creation and redemption of Baskets and to pay Trust expenses, as described below.

According to the Registration Statement, the Trust will invest in bitcoin only. The activities of the Trust are limited to: (1) Issuing Baskets in exchange for the cash and/or bitcoin deposited with the Cash Custodian or Trust, respectively, as consideration; (2) purchasing bitcoin from various exchanges and in OTC transactions; (3) selling bitcoin (or transferring bitcoin, at the Sponsor's discretion, to pay the Management Fee) as necessary to cover the Sponsor's Management Fee, bitcoin Insurance Fee, Trust principals' and employees' salaries, expenses associated with securing the Trust's bitcoin and Trust expenses not assumed by the Sponsor and other liabilities; (4) selling bitcoin as necessary in connection with redemptions; (5) delivering cash and/or bitcoin in exchange for Baskets surrendered for redemption; (6) maintaining insurance coverage for the bitcoin held by the Trust; and (7) securing the bitcoin held by the Trust.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,[7] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''),[8] and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Trust is for the Shares to reflect the performance of the price of bitcoin, less the expenses of the Trust's operations. The Trust intends to achieve this objective by investing substantially all of its assets in bitcoin traded primarily in the over-the-counter (''OTC'') markets, though the Trust may also invest in bitcoin traded on domestic and international bitcoin exchanges, depending on liquidity and otherwise at the Trust's discretion. The Trust is not actively managed. It does not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the price of bitcoin.

Investment in bitcoin

Subject to certain requirements and conditions described below and in the Registration Statement, the Trust, under normal market conditions,[9] will use available offering proceeds to purchase bitcoin primarily in the OTC markets, without being leveraged or exceeding relevant position limits.

bitcoin and the bitcoin Industry

General

The following is a brief introduction to the global bitcoin market. The data presented below are derived from information released by various third-party sources, including white papers, other published materials, research reports and regulatory guidance.

The bitcoin Network

A bitcoin is an asset that can be transferred among parties via the internet, but without the use of a central administrator or clearing agency. The term ''decentralized'' is often used in descriptions of bitcoin, in reference to bitcoin's lack of necessity for administration by a central party. The Bitcoin Network (*i.e.,* the network of computers running the software protocol underlying bitcoin involved in maintaining the database of bitcoin ownership and facilitating the transfer of bitcoin among parties) and the asset, bitcoin, are intrinsically linked and inseparable. Bitcoin was first described in a white paper released in 2008 and published under the name ''Satoshi Nakamoto'', and the protocol underlying bitcoin was subsequently released in 2009 as open source software.

bitcoin Ownership and the Blockchain

To begin using bitcoin, a user may download specialized software referred to as a ''bitcoin wallet''. A user's bitcoin wallet can run on a computer or smartphone. A bitcoin wallet can be used both to send and to receive bitcoin. Within a bitcoin wallet, a user will be able to generate one or more ''bitcoin addresses'', which are similar in concept to bank account numbers, and each address is unique. Upon generating a bitcoin address, a user can begin to transact in bitcoin by receiving bitcoin at his or her bitcoin address and sending it from his or her address to another user's address. Sending bitcoin from one bitcoin address to another is similar in concept to sending a bank wire from one person's bank account to another person's bank account.

[3] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

[5] The Trust will issue and redeem ''Baskets'', each equal to a block of 5 Shares, only to ''Authorized Participants''. See ''Creation and Redemption of Shares'' below.

[6] A ''bitcoin'' is an asset that can be transferred among parties via the internet, but without the use of a central administrator or clearing agency (''bitcoin''). The asset, bitcoin, is generally written with a lower case ''b''. The asset, bitcoin, is differentiated from the computers and software (or the protocol) involved in the transfer of bitcoin among users, which constitute the ''Bitcoin Network''. The asset, bitcoin, is the intrinsically linked unit of account that exists within the Bitcoin Network. See ''bitcoin and the Bitcoin Industry'' below.

[7] 15 U.S.C. 80a–1.

[8] 17 U.S.C. 1.

[9] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the price of bitcoin or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

Balances of the quantity of bitcoin associated with each bitcoin address are listed in a database, referred to as the ''blockchain''. Copies of the blockchain exist on thousands of computers on the Bitcoin Network throughout the internet. A user's bitcoin wallet will either contain a copy of the blockchain or be able to connect with another computer that holds a copy of the blockchain.

When a bitcoin user wishes to transfer bitcoin to another user, the sender must first request a bitcoin address from the recipient. The sender then uses his or her bitcoin wallet software, to create a proposed addition to the blockchain. The proposal would decrement the sender's address and increment the recipient's address by the amount of bitcoin desired to be transferred. The proposal is entirely digital in nature, similar to a file on a computer, and it can be sent to other computers participating in the Bitcoin Network. Such digital proposals are referred to as ''bitcoin transactions''. Bitcoin transactions and the process of one user sending bitcoin to another should not be confused with buying and selling bitcoin, which is a separate process (as discussed below in ''bitcoin Trading On Exchanges'' and ''bitcoin Trading Over-the-Counter'').

A bitcoin transaction is similar in concept to an irreversible digital check. The transaction contains the sender's bitcoin address, the recipient's bitcoin address, the amount of bitcoin to be sent, a confirmation fee and the sender's digital signature. The sender's use of his or her digital signature enables participants on the Bitcoin Network to verify the authenticity of the bitcoin transaction.

A user's digital signature is generated via usage of the user's so-called ''private key'', one of two numbers in a so-called cryptographic ''key pair''. A key pair consists of a ''public key'' and its corresponding private key, both of which are lengthy numerical codes, derived together and possessing a unique relationship.

Public keys are used to create bitcoin addresses. Private keys are used to sign transactions that initiate the transfer of bitcoin from a sender's bitcoin address to a recipient's bitcoin address. Only the holder of the private key associated with a particular bitcoin address can digitally sign a transaction proposing a transfer of bitcoin from that particular bitcoin address.

A user's bitcoin address (which is derived from a public key) may be safely distributed, but a user's private key must remain known solely by its rightful owner. The utilization of a private key is the only mechanism by which a bitcoin user can create a digital signature to transfer bitcoin from him or herself to another user. Additionally, if a malicious third party learns of a user's private key, that third party could forge the user's digital signature and send the user's bitcoin to any arbitrary bitcoin address (*i.e.,* the third party could steal the user's bitcoin).

When a bitcoin holder sends bitcoin to a destination bitcoin address, the transaction is initially considered unconfirmed. Confirmation of the validity of the transaction involves verifying the signature of the sender, as created by the sender's private key. Confirmation also involves verifying that the sender has not ''double spent'' the bitcoin (*e.g.,* confirming Party A has not attempted to send the same bitcoin both to Party B and to Party C). The confirmation process occurs via a process known as ''bitcoin mining''.

Bitcoin mining utilizes a combination of computer hardware and software to accomplish a dual purpose: (i) To verify the authenticity and validity of bitcoin transactions (*i.e.,* the movement of bitcoin between addresses) and (ii) the creation of new bitcoin. Neither the Sponsor nor the Trust intends to engage in bitcoin mining.

Bitcoin miners do not need permission to participate in verifying transactions. Rather, miners compete to solve a prescribed and complicated mathematical calculation using computers dedicated to the task. Rounds of the competition repeat approximately every ten minutes. In any particular round of the competition, the first miner to find the solution to the mathematical calculation is the miner who gains the privilege of announcing the next block to be added to the blockchain.

A new block that is added to the blockchain serves to take all of the recent-yet-unconfirmed transactions and verify that none are fraudulent. The recent-yet-unconfirmed transactions also generally contain transaction fees that are awarded to the miner who produces the block in which the transactions are inserted, and thereby confirmed. The successful miner also earns the so-called ''block reward'', an amount of newly created bitcoin. Thus, bitcoin miners are financially incentivized to conduct their work. The financial incentives received by bitcoin miners are a vital part of the process by which the Bitcoin Network functions.

Upon successfully winning a round of the competition (winning a round is referred to as mining a new block), the miner then transmits a copy of the newly-formed block to peers on the Bitcoin Network, all of which then update their respective copies of the blockchain by appending the new block, thereby acknowledging the confirmation of the transactions that had previously existed in an unconfirmed state.

A recipient of bitcoin must wait until a new block is formed in order to see the transaction convert from an unconfirmed state to a confirmed state. According to the Registration Statement, with new rounds won approximately every ten minutes, the average wait time for a confirmation is five minutes.

The protocol underlying bitcoin provides the rules by which all users and miners on the Bitcoin Network must operate. A user or miner attempting to operate under a different set of rules will be ignored by other network participants, thus rendering that user's or miner's behavior moot. The protocol also lays out the block reward, the amount of bitcoin that a miner earns upon creating a new block. The initial block reward when Bitcoin was introduced in 2009 was 50 bitcoin per block. That number has and will continue to halve approximately every four years until approximately 2140, when it is estimated that block rewards will go to zero. The most recent halving occurred on July 9, 2016, which reduced the block reward from 25 to 12.5 bitcoin. The next halving is projected for June 2020, which will reduce the block reward to 6.25 bitcoin from its current level of 12.5. The halving thereafter will occur in another four years and will reduce the block reward to 3.125 bitcoin, and so on. As of May 2018, there are approximately 17 million bitcoin that have been created, a number that will grow with certainty to a maximum of 21 million, estimated to occur by the year 2140. Bitcoin mining should not be confused with buying and selling bitcoin, which, as discussed below, is a separate process.

Use of bitcoin and the Blockchain

Beyond using bitcoin as a value transfer mechanism, applications related to the blockchain technology underlying bitcoin have become increasingly prominent.[10] Blockchain-focused applications take advantage of certain unique characteristics of the blockchain such as secure time stamping (secure time stamps are on newly created blocks), highly redundant storage (copies of the blockchain are distributed throughout the internet) and

[10] Additional applications based on blockchain technology—both the blockchain underlying bitcoin as well as separate public blockchains incorporating similar characteristics of the blockchain underlying bitcoin—are currently in development by numerous entities, including financial institutions like banks.

tamper-resistant data secured by secure digital signatures.

According to the Registration Statement, blockchain-focused applications in usage and under development include, but are not limited to asset title transfer, secure timestamping, counterfeit and fraud detection systems, secure document and contract signing, distributed cloud storage and identity management. Although value transfer is not the primary purpose for blockchain-focused applications, the usage of bitcoin, the asset, is inherently involved in blockchain-focused applications, thus linking the growth and adoption of bitcoin to the growth and adoption of blockchain-focused applications.

bitcoin Trading Over-the-Counter

As referenced above, OTC trading of bitcoin is generally accomplished via bilateral agreements on a principal-to-principal basis. All risks and issues of credit are between the parties directly involved in the transaction. The OTC market provides a relatively flexible market in terms of quotes, price, size and other factors. The OTC market has no formal structure and no open-outcry meeting place. Parties engaging in OTC transactions will agree upon a price—often via phone or email—and one of the two parties would then initiate the transaction. For example, a seller of bitcoin could initiate the transaction by sending the bitcoin to the buyer's bitcoin address. The buyer would then wire U.S. dollars to the seller's bank account.

Based on its observations and experience in the market, the Sponsor estimates that the U.S. dollar OTC bitcoin trading volume globally represents on average approximately fifty percent of the trading volume of bitcoin traded globally in U.S. dollars on U.S. dollar-denominated bitcoin exchanges.

According to the Registration Statement, transaction costs in the OTC market are negotiable between the parties and therefore vary with some participants willing to offer competitive prices for larger volumes, although this will vary according to market conditions. Cost indicators can be obtained from OTC trading platforms as well as various information service providers, such as the bitcoin price indexes and bitcoin exchanges. OTC trading tends to be in large blocks of bitcoin and between institutions.

The Trust intends to buy and sell bitcoin in the OTC bitcoin market. The Sponsor currently expects that often it will be more cost efficient for the Trust to effect large trades (*e.g.,* $500,000 or greater) in the OTC market rather than on a bitcoin exchange. The Trust therefore expects to conduct most of its trading in the OTC bitcoin market, primarily on the OTC platforms that comprise the MVIS® Bitcoin OTC Index (''MVBTCO'').

When buying and selling bitcoin in the OTC market, the Trust will consider various market factors, including the total U.S. dollar size of the trade, the volume of bitcoin traded across the various U.S. dollar-denominated bitcoin exchanges during the preceding 24-hour period, available liquidity offered by OTC market participants, and the bid and ask quotes offered by OTC market participants. The Trust's goal is to fill an order at the best possible price.

While the Trust intends to conduct the majority of its trading in the OTC market on the OTC platforms that comprise the MVBTCO, the Trust also maintains an internal proprietary database, which it does not share with anyone, of potential OTC bitcoin trading counterparties, including hedge funds, family offices, private wealth managers and high-net-worth individuals. All such potential counterparties will be subject to the Trust's anti-money laundering (''AML'') and know your customer (''KYC'') compliance procedures. The Trust will begin trading with such potential OTC counterparties as their trading capabilities become viable. The Trust will also add additional potential counterparties to its internal proprietary database as it becomes aware of additional market participants. The Trust will decide which OTC counterparties it will trade with based on its ability to fill orders at the best available price amongst OTC market participants.

To the extent a Basket creation or redemption order necessitates the buying or selling of a large block of bitcoin (*e.g.,* an amount that if an order were placed on an exchange would potentially move the price of bitcoin), the Sponsor represents that placing such a trade in the OTC market may be advantageous to the Trust. OTC trades help avoid factors such as potential price slippage (causing the price of bitcoin to move as the order is filled on the exchange), while offering speed in trade execution and settlement (an OTC trade can be executed immediately upon agreement of terms between counterparties) and privacy (to avoid other market participants entering trades in advance of a large block order). OTC bitcoin trading is typically private and not regularly reported. The Trust does not intend to report its OTC trading. The Trust has established delivery-versus-payment like (''DVP'') and receive-versus-payment like (''RVP'') trading arrangements with its trading counterparties pursuant to which the Trust will be able to minimize counterparty risk. These arrangements are on a trade-by-trade basis and do not bind the Trust to continue to trade with any counterparty.

The Trust expects to take custody of bitcoin within one business day of receiving an order from an Authorized Participant to create a Basket (as defined in ''Creation and Redemption of Shares'' below).

bitcoin Price Index

MVBTCO Index. The MVBTCO represents the value of one bitcoin in U.S. dollars at any point in time. The index also generates a closing price as of 4:00 p.m., Eastern time (''E.T.''), each weekday, which is used to calculate the Trust's NAV. The index price and the closing price are calculated using the same methodology. The intra-day levels of the MVBTCO incorporate the real-time price of bitcoin based on executable bids and asks derived from constituent bitcoin OTC platforms that have entered into an agreement with MV Index Solutions GmbH (''MVIS'') to provide such information. The intra-day price and closing level of the MVBTCO is calculated using a proprietary methodology collecting executable bid/ask spreads and calculating a mid-point price from several U.S.-based bitcoin OTC platforms and is published at or after 4:00 p.m., E.T., each weekday. The MVBTCO is published to two decimal places rounded on the last digit.

MVIS is the index sponsor and calculation agent for the MVBTCO. The Sponsor has entered into a licensing agreement with MVIS to use the MVBTCO. The Trust is entitled to use the MVBTCO pursuant to a sub-licensing arrangement with the Sponsor.

The MVBTCO calculates the intra-day price of bitcoin every 15 seconds, including the closing price as of 4:00 p.m. E.T. The bitcoin OTC platforms included in the MVBTCO are U.S.-based entities. These platforms are well established institutions that comply with AML and KYC regulatory requirements with respect to trading counterparties and include entities that are regulated by the SEC and FINRA as registered broker-dealers and affiliates of broker-dealers.

The logic utilized for the derivation of the intra-day and daily closing index level for the MVBTCO is intended to analyze actual executable bid/ask spread data, verify and refine the data set and yield an objective, fair-market value of one bitcoin throughout the day and as of 4:00 p.m. E.T. each weekday,

priced in U.S. dollars. As discussed herein, the MVBTCO intra-day price and the MVBTCO closing price are collectively referred to as the MVBTCO price, unless otherwise noted.

The key elements of the algorithm underlying the MVBTCO include:

• Equal Weighting of OTC Platforms: This mitigates the impact of spikes at single platforms.

• Using executable bid/ask spreads and the respective mid-point prices, which are consistently available.

The Sponsor is not aware of any bitcoin derivatives currently trading based on the MVBTCO.

bitcoin Exchanges

Bitcoin exchanges operate websites that facilitate the purchase and sale of bitcoin for various government-issued currencies, including the U.S. dollar, the euro or the Chinese yuan. Activity on bitcoin exchanges should not be confused with the process of users sending bitcoin from one bitcoin address to another bitcoin address, the latter being an activity that is wholly within the confines of the Bitcoin Network and the former being an activity that occurs entirely on private websites.

Bitcoin exchanges operate in a manner that is unlike the traditional capital markets infrastructure in the U.S. and in other developed nations. Bitcoin exchanges combine the process of order matching, trade clearing, trade settlement and custody into a single entity. For example, a user can send U.S. dollars via wire to a bitcoin exchange and then visit the exchange's website to purchase bitcoin. The entirety of the transaction—from trade to clearing to settlement to custody (at least temporary custody)—is accomplished by the bitcoin exchange in a matter of seconds. The user can then withdraw the purchased bitcoin into a wallet to take custody of the bitcoin directly.

According to the Registration Statement, there are currently several U.S.-based regulated entities that facilitate bitcoin trading and that comply with state and/or U.S. AML and KYC regulatory requirements. While the Commodity Futures Trading Commision (the ''CFTC'') is responsible for regulating the bitcoin spot market with respect to fraud and manipulation—in the same way that it regulates the spot market for gold, silver or other exempt commodities—there is no direct, comprehensive federal oversight of bitcoin exchanges or trading platforms in the United States and no U.S. exchanges are registered with the Commission or the CFTC.

• GDAX (f/k/a Coinbase), which is based in California, is a bitcoin exchange that maintains money transmitter licenses in over thirty states, the District of Columbia and Puerto Rico. GDAX is subject to the regulations enforced by the various State agencies that issued their respective money transmitter licenses to GDAX. The New York Department of Financial Services (''NYDFS'') granted a BitLicense to GDAX in January 2017.

• itBit is a bitcoin exchange that was granted a limited purpose trust company charter by the NYDFS in May 2015. Limited purpose trusts, according to the NYDFS, are permitted to undertake certain activities, such as transfer agency, securities clearance, investment management, and custodial services, but without the power to take deposits or make loans.

• Gemini is a bitcoin exchange that is also regulated by the NYDFS. In October 2015, NYDFS granted Gemini an Authorization Certificate, which allows Gemini to operate as a limited purpose trust company.

• Genesis Global Trading is a FINRA member firm that makes a market in bitcoin by offering two-sided liquidity (''Genesis Global Trading''). In May 2018, NYDFS granted Genesis Global Trading a BitLicense.

• bitFlyer is a virtual currency exchange that is registered in Japan. In November 2017, NYDFS granted Tokyo-based bitFlyer a BitLicense.

Bitcoin are traded with publicly disclosed valuations for each transaction, measured by one or more government currencies such as the U.S. dollar, the euro or the Chinese yuan. Bitcoin exchanges typically report publicly on their site the valuation of each transaction and bid and ask prices for the purchase or sale of bitcoin. Although each bitcoin exchange has its own market price, it is expected that most bitcoin exchanges' market prices should be relatively consistent with the bitcoin exchange market average since market participants can choose the bitcoin exchange on which to buy or sell bitcoin (*i.e.,* exchange shopping).

bitcoin Trading on Exchanges

According to the Registration Statement, to the extent the Trust conducts bitcoin trading on an exchange, it expects to do so on the following U.S. dollar-denominated bitcoin exchanges: Bitstamp (located in Slovenia and with an office in the U.K.), GDAX (f/k/a Coinbase) (located in California), Gemini (located in New York), itBit (located in New York), bitFlyer (located in New York) and Kraken (located in San Francisco). All of these exchanges follow AML and KYC regulatory requirements.

bitcoin Price Transparency

In addition to the price transparency of the MVBTCO, with respect to the OTC market, and the bitcoin exchange market itself, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Sponsor expects that the dissemination of information on the Trust's website, along with quotations for and last-sale prices of transactions in the Shares and the intra-day indicative value (''IIV'') and net asset value (''NAV'') of the Trust will help to reduce the ability of market participants to manipulate the bitcoin market or the price of the Shares and that the Trust's arbitrage mechanism will facilitate the correction of price discrepancies in bitcoin and the Shares. The Sponsor believes that demand from new, larger investors accessing bitcoin through investment in the Shares will broaden the investor base in bitcoin, which could further reduce the possibility of collusion among market participants to manipulate the bitcoin market. The Sponsor expects that the Shares will be purchased primarily by institutional and other substantial investors (such as hedge funds, family offices, private wealth managers and high-net-worth individuals), which will provide additional liquidity and transparency to the bitcoin market in a regulated vehicle such as the Trust.

According to the Sponsor, the MVBTCO's methodology decreases the influence on the MVBTCO of any particular OTC platform that diverges from the rest of the data points used by the MVBTCO, which reduces the possibility of an attempt to manipulate the price of bitcoin as reflected by the MVBTCO.

Historical Price of bitcoin

The price of bitcoin is volatile and fluctuations are expected to have a direct impact on the value of the Shares. However, movements in the price of bitcoin in the past are not a reliable indicator of future movements. Movements may be influenced by various factors, including supply and demand, geo-political uncertainties, economic concerns such as inflation and real or speculative investor interest.

Additional bitcoin Trading Products

Certain U.S. platforms and non-U.S. based bitcoin exchanges offer derivative products on bitcoin such as options, swaps and futures.

According to the Registration Statement, BitMex, based in the

Republic of Seychelles, CryptoFacilites, based in the United Kingdom, 796 Exchange, based in China, and OKCoin Exchange China all offer futures contracts settled in bitcoin. Coinut, based in Singapore, offers bitcoin binary options and vanilla options based on the Coinut index. Deribit, based in the Netherlands, offers vanilla options and futures contracts settled in bitcoin. IGMarkets, based in the United Kingdom, Avatrade, based in Ireland, and Plus500, based in Israel, all offer bitcoin derivative products.

In July 2017, the CFTC issued an order granting LedgerX, LLC (''LedgerX'') registration as a derivatives clearing organization under the CEA. Under the order, LedgerX is authorized to provide clearing services for fully-collateralized digital currency swaps. LedgerX, which was also granted an order of registration as a Swap Execution Facility in July 2017, is the first federally-regulated exchange and clearing house for derivatives contracts settling in digital currencies. LedgerX began trading options and swaps on its platform in October 2017.

The CFTC commissioners have expressed publicly that derivatives based on bitcoin are subject to regulation by the CFTC, including oversight to prevent market manipulation of the price of bitcoin. In addition, the CFTC has stated that bitcoin and other virtual currencies are encompassed in the definition of commodities under the CEA.[11] While the CFTC does not regulate the bitcoin spot market—in the same way that it does not regulate the spot market for gold, silver or other exempt commodities—it is nevertheless responsible for overseeing and enforcing the CEA as it applies to trading in bitcoin derivatives. Further to this point, Cboe Futures Exchange, LLC and Chicago Mercantile Exchange, Inc. self-certified bitcoin futures contracts with the CFTC and began offering trading in December 2017 and Cantor Futures Exchange L.P. self-certified bitcoin swaps in December 2017.

In May 2015, the Swedish FSA approved the prospectus for ''Bitcoin Tracker One'', an open-ended exchange-traded note that tracks the price of bitcoin in U.S. dollars. The Bitcoin Tracker One initially traded in Swedish krona on the Nasdaq Nordic in Stockholm, but is now also available to trade in euro. The Bitcoin Tracker One is available to retail investors in the European Union and to those investors in the U.S. who maintain brokerage accounts with Interactive Brokers.

Founded in 2013, Bitcoin Investment Trust, a private, open-ended trust available to accredited investors, is another investment vehicle that derives its value from the price of bitcoin. Eligible shares of the Bitcoin Investment Trust are quoted on the OTCQX marketplace under the symbol ''GBTC''.

In May 2016, the Gibraltar Financial Services Commission approved the BitcoinETI, which in July 2016 was listed on the Gibraltar Stock Exchange and on Deutsche Börse Frankfurt in August 2016. The BitcoinETI is a bitcoin-backed exchange-traded instrument that is euro denominated.

bitcoin Security and Storage for the Trust

According to the Sponsor, given the novelty and unique digital characteristics (as set forth above) of bitcoin as an innovative asset class, traditional custodians who normally custody assets do not currently offer custodial services for bitcoin. Accordingly, the Trust will secure bitcoin using multi-signature ''cold storage wallets'', an industry best practice. A cold storage wallet is created and stored on a computer with no access to a network, *i.e.,* an ''air-gapped'' computer with no ability to access the internet. Such a computer is isolated from any network, including local or internet connections. A multi-signature address is an address associated with more than one private key. For example, a ''2 of 3'' address requires two signatures (out of three) from two separate private keys (out of three) to move bitcoin from a sender address to a receiver address.

The Trust will utilize bitcoin private keys that are generated and stored on air-gapped computers. The movement of bitcoin will require physical access to the air-gapped computers and use of multiple authorized signers. For backup and disaster recovery purposes, the Trust will maintain cold storage wallet backups in locations geographically distributed throughout the United States, including in the Northeast and Midwest.

In addition to its security system, the Trust will maintain comprehensive insurance coverage underwritten by various insurance carriers. The purpose of the insurance is to protect investors against loss or theft of the Trust's bitcoin. The insurance will cover loss of bitcoin by, among other things, theft, destruction, bitcoin in transit, computer fraud and other loss of the private keys that are necessary to access the bitcoin held by the Trust. The coverage is subject to certain terms, conditions and exclusions, as discussed in the Registration Statement. The insurance policy will carry initial limits of $25 million in primary coverage and $100 million in excess coverage, with the ability to increase coverage depending on the value of the bitcoin held by the Trust. To the extent the value of the Trust's bitcoin holdings exceeds the total $125,000,000 of insurance coverage, the Sponsor has made arrangements for additional insurance coverage with the goal of maintaining insurance coverage at a one-to-one ratio with the Trust's bitcoin holdings valued in U.S. dollars such that for every dollar of bitcoin held by the Trust there is an equal amount of insurance coverage.

The Sponsor expects that the Trust's auditor will verify the existence of bitcoin held in custody by the Trust. In addition, the Trust's insurance carriers will have inspection rights associated with the bitcoin held in custody by the Trust.

bitcoin Market Price

In the ordinary course of business, the Administrator will value the bitcoin held by the Trust based on the closing price set by the MVBTCO or one of the other pricing sources set forth below (each, a ''bitcoin Market Price'') as of 4:00 p.m. E.T., on the valuation date on any day that the Exchange is open for regular trading. For further detail, see (i) below. If for any reason, and as determined by the Sponsor, the Administrator is unable to value the Trust's bitcoin using the procedures described in (i), the Administrator will value the Trust's bitcoin using the cascading set of rules set forth in (ii) through (iv) below. For the avoidance of doubt, the Administrator will employ the below rules sequentially and in the order as presented, should the Sponsor determine that one or more specific rule(s) fails. The Sponsor may determine that a rule has failed if a pricing source is unavailable or, in the judgment of the Sponsor, is deemed unreliable. To the extent the Administrator uses any of the cascading set of rules, the Sponsor will make public on the Trust's website the rule being used.

(i) Except as further described below, the bitcoin Market Price will be: The

[11] *See* ''In the Matter of Coinflip, Inc.'' (''Coinflip'') (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated the following:

''Section 1a(9) of the CEA defines 'commodity' to include, among other things, 'all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.' 7 U.S.C. 1a(9). The definition of a 'commodity' is broad. *See, e.g., Board of Trade of City of Chicago* v. *SEC*, 677 F. 2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.''

price set by the MVBTCO as of 4:00 p.m. E.T., on the valuation date. The MVBTCO is a real-time U.S. dollar-denominated composite reference rate for the price of bitcoin. The MVBTCO calculates the intra-day price of bitcoin every 15 seconds, including the closing price as of 4:00 p.m. E.T. The intra-day price and closing price are based on a methodology that consists of collecting actual executable bid/ask spreads and calculating a mid-point price from constituent bitcoin OTC platforms that have entered into an agreement with MVIS. The logic utilized for the derivation of the daily closing index level for the MVBTCO is intended to analyze actual executable bid/ask spread data, verify and refine the data set, and yield an objective, fair-market value of one bitcoin throughout the day and as of 4:00 p.m. E.T. each weekday, priced in U.S. dollars.

(ii) In the event that rule (i) above fails, the bitcoin Market Price will be: The mid-point price between the bid/ask obtained by the Sponsor from any one of the bitcoin OTC platforms included within the MVBTCO index as of 4:00 p.m. E.T., on the valuation date.

(iii) In the event that rules (i) and (ii) above fail, the bitcoin Market Price will be: The volume weighted average bitcoin price for the immediately preceding 24-hour period at 4:00 p.m. E.T. on the valuation date as published by an alternative third party's public data feed that the Sponsor determines is reasonably reliable, subject to the requirement that such data is calculated based upon a volume weighted average bitcoin price obtained from the major U.S. dollar-denominated bitcoin exchanges (''Second Source''). Subject to the next sentence, if the Second Source becomes unavailable (*e.g.,* data sources from the Second Source for bitcoin prices become unavailable, unwieldy or otherwise impractical for use), or if the Sponsor determines in good faith that the Second Source does not reflect an accurate bitcoin price, then the Sponsor will, on a best efforts basis, contact the Second Source in an attempt to obtain the relevant data. If after such contact the Second Source remains unavailable or the Sponsor continues to believe in good faith that the Second Source does not reflect an accurate bitcoin price, then the Administrator will employ the next rule to determine the bitcoin Market Price.

(iv) In the event that rules (i), (ii), and (iii) above fail, the bitcoin Market Price will be: The Sponsor will use its best judgment to determine a good faith estimate of the bitcoin Market Price.

The Trust

According to the Registration Statement, the Trust will invest in bitcoin only. The Trust will either (i) cause the Sponsor to receive bitcoin from the Trust in such quantity as may be necessary to pay the Management Fee or (ii) sell bitcoin in such quantity as may be necessary to permit payment in cash of the Management Fee and other Trust expenses and liabilities not assumed by the Sponsor, such as the bitcoin Insurance Fee, bitcoin storage fees and salaries of Trust principals and employees. As a result, the amount of bitcoin sold will vary from time to time depending on the level of the Trust's expenses and the market price of bitcoin.

The Trust will pay the Sponsor a management fee as compensation for services performed on behalf of the Trust and for services performed in connection with maintaining the Trust. The Sponsor's fee will be payable monthly in arrears and will be accrued daily. The bitcoin Insurance Fee will be payable by the Trust monthly in advance, as described in the Registration Statement. Bitcoin storage fees and salaries of Trust principals and employees will be payable monthly in arrears and will be accrued daily.

In exchange for the Management Fee, the Sponsor has agreed to assume the following administrative and marketing expenses incurred by the Trust: Each of the Trustee's, Administrator's, Cash Custodian's, Transfer Agent's and Marketing Agent's monthly fee and out-of-pocket expenses and expenses reimbursable in connection with such service provider's respective agreement; the marketing support fees and expenses; exchange listing fees; SEC registration fees; index license fees; printing and mailing costs; maintenance expenses for the Trust's website; audit fees and expenses; and up to $100,000 per annum in legal expenses. The Trust will be responsible for paying, or for reimbursing the Sponsor or its affiliates for paying, all the extraordinary fees and expenses, if any, of the Trust. The management fee to be paid to the Sponsor, the bitcoin Insurance Fee, the salaries of the Trust's principals and employees and the expenses associated with custody of the Trust's bitcoin are expected to be the only ordinary recurring operating expense of the Trust.

Net Asset Value

The NAV for the Trust will equal the market value of the Trust's total assets, including bitcoin and cash, less liabilities of the Trust, which include estimated accrued but unpaid fees, expenses and other liabilities. Under the Trust's proposed operational procedures, the Administrator will calculate the NAV on each business day that the Exchange is open for regular trading, as promptly as practicable after 4:00 p.m. E.T. To calculate the NAV, the Administrator will use the closing price set for bitcoin by the MVBTCO or one of the other bitcoin Market Prices set forth above. The Administrator will also determine the NAV per Share by dividing the NAV of the Trust by the number of the Shares outstanding as of the close of trading on Regular Trading Hours, *i.e.,* 9:30 a.m. to 4:00 p.m. E.T. (which includes the net number of any Shares deemed created or redeemed on such day).

According to the Registration Statement, Authorized Participants (as defined in ''Creation and Redemption of Shares'' below), or their clients or customers, may have an opportunity to realize a riskless profit if they can create a Basket (as defined in ''Creation and Redemption of Shares'' below) at a discount to the public trading price of the Shares or can redeem a Basket at a premium over the public trading price of the Shares. The Sponsor expects that the exploitation of such arbitrage opportunities by Authorized Participants and their clients and customers will tend to cause the public trading price to track NAV per Share closely over time. Such arbitrage opportunities will not be available to holders of Shares who are not Authorized Participants.

While the Trust's investment objective is for the Shares to reflect the performance of the price of bitcoin, less expenses of the Trust's operations, the Shares may trade in the secondary market at prices that are lower or higher relative to their NAV per Share for a number of reasons, including price volatility, trading volume, and closing of bitcoin trading platforms due to fraud, failure, security breaches or otherwise.

The NAV per Share may fluctuate with changes in the market value of the bitcoin held by the Trust. The value of the Shares may be influenced by non-concurrent trading hours between the Exchange and the various bitcoin OTC platforms comprising the MVBTCO. As a result, there will be periods when the Exchange is closed and the bitcoin OTC platforms continue to trade. Significant changes in the price of bitcoin during such time periods could result in a difference between the value of bitcoin as measured by the MVBTCO and the most recent NAV per Share or closing trading price. The Exchange, however,

expects that any meaningful divergence in the intraday price of the Shares and the MVTCO will be quickly arbitraged away when trading is available on the Exchange because when such a discount or premium exists, Authorized Participants will generally be able to create or redeem a Basket of Shares at a discount or a premium to the public trading price per Share.

Impact on Arbitrage

Investors and market participants are able throughout the trading day to compare the market price of the Shares and the Share's IIV. If the market price of the Shares diverges significantly from the IIV, Authorized Participants will have strong economic incentive to execute arbitrage trades. Because of the potential for arbitrage inherent in the structure of the Trust, the Sponsor believes that the Shares will not trade at a material discount or premium to the underlying bitcoin held by the Trust. If the price of the Shares deviates enough from the price of bitcoin to create a material discount or premium, an arbitrage opportunity is created. If the Shares are inexpensive compared to the bitcoin that underlies them, an arbitrageur may buy the Shares at a discount, immediately redeem them in exchange for bitcoin, and sell the bitcoin in the cash market at a profit. If the Shares are expensive compared to the bitcoin that underlies them, an arbitrageur may sell the Shares short, buy enough bitcoin to acquire the number of Shares sold short, acquire the Shares through the creation process, and deliver the Shares to close out the short position. To facilitate the arbitrage process, Authorized Participants may source bitcoin through the OTC market or on exchanges; alternatively, Authorized Participants may create or redeem for cash and the Trust will source buyers and sellers of bitcoin in the OTC market. The arbitrage process, which in general provides investors the opportunity to profit from differences in prices of assets, increases the efficiency of the markets, serves to prevent potentially manipulative efforts, and can be expected to operate efficiently in the case of the Shares and bitcoin.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will issue and redeem ''Baskets'', each equal to a block of 5 Shares, only to ''Authorized Participants'' (as described below). The size of a Basket is subject to change. The creation and redemption of a Basket require the delivery to the Trust, or the distribution by the Trust, of the number of whole and fractional bitcoins or the U.S. dollar equivalent represented by each Basket being created or redeemed, the number of which is determined by dividing the number of bitcoins owned by the Trust at such time by the number of Shares outstanding at such time (calculated to one one-hundred-millionth of one bitcoin), as adjusted for the number of whole and fractional bitcoins constituting accrued but unpaid fees and expenses of the Trust and multiplying the quotient obtained by 5 (''bitcoin Basket Amount''). The bitcoin Basket Amount will gradually decrease over time as the Trust's bitcoin are used to pay the Trust's expenses. According to the Registration Statement, as of the date of the Registration Statement, each Share currently represents approximately 25 bitcoin.

Orders to create and redeem Baskets may be placed only by Authorized Participants.[12] A transaction fee will be assessed on all creation and redemption transactions effected in-kind. In addition, the Trust reserves the right to charge a variable transaction fee to the Authorized Participants for creations and redemptions effected in cash to cover the Trust's expenses related to purchasing and selling bitcoin in the OTC market or on bitcoin exchanges if such expenses should exceed the fixed $1,000 transaction fee. The variable transaction fee would cover actual expenses paid for the purchase and sale of bitcoin in order that such expenses do not decrease the NAV of the Trust. Such expenses may vary, but the Trust expects such expenses, should they occur in the future, to constitute 1% or less of the value of a Basket. The creation and redemption of a Basket requires the delivery to the Trust, or the distribution by the Trust, of the bitcoin Basket Amount (that is, the number of bitcoins represented by each Basket or the U.S. dollar equivalent), for each Basket to be created or redeemed. The bitcoin Basket Amount multiplied by the number of Baskets being created or redeemed is the ''Total bitcoin Basket Amount.''

Creation Procedures

On any business day, an Authorized Participant may place an order with the Transfer Agent to create one or more Baskets. For purposes of processing both purchase and redemption orders, a ''business day'' means any day other than a day when the Exchange is closed for regular trading. Cash purchase orders must be placed by 3:00 p.m. E.T., or the close of regular trading on the Exchange, whichever is earlier, and in-kind purchase orders must be placed by 4:00 p.m. E.T., or the close of regular trading on the Exchange, whichever is earlier. The day on which the Transfer Agent receives a valid purchase order, as approved by the Marketing Agent, is the purchase order date. Purchase orders are irrevocable. By placing a purchase order, and prior to delivery of such Baskets, an Authorized Participant's DTC account will be charged the non-refundable transaction fee due for the purchase order.

Determination of Required Payment

The total payment required to create each Basket is determined by calculating the NAV of 5 Shares of the Trust as of the closing time of the Exchange on the purchase order date. Baskets are issued as of 2:00 p.m., E.T., on the business day immediately following the purchase order date at the applicable NAV as of the closing time of the Exchange on the purchase order date, but only if the required payment has been timely received.

Orders to purchase Baskets for cash must be placed no later than 3:00 p.m. E.T., or the close of regular trading on the Exchange, whichever is earlier, and orders to purchase Baskets in-kind must be placed no later than 4:00 p.m. E.T., or the close of regular trading on the Exchange, whichever is earlier. For cash creation orders, the total cash payment required to create a Basket will not be determined until approximately 4:00 p.m., E.T. (the time at which the Trust's NAV for that day is expected to be calculated) on the date the purchase order is received by the Transfer Agent and approved by the Marketing Agent. Authorized Participants therefore will not know the total amount of the payment required to create a Basket at the time they submit an irrevocable purchase order for the Basket. Valid cash orders to purchase Baskets received after 3:00 p.m. E.T., and valid in-kind orders to purchase Baskets received after 4:00 p.m. E.T., are considered received on the following business day. The NAV of the Trust, and thus the total amount of the payment required to create a Basket for cash could rise or fall substantially between the time an irrevocable purchase order is submitted and the time the amount of the purchase price in respect thereof is determined. Changes to the price of

[12] An Authorized Participant must: (1) Be a registered broker-dealer and a member in good standing with the Financial Industry Regulatory Authority (''FINRA''); (2) be a participant in Depository Trust Company (''DTC''). To become an Authorized Participant, a person must enter into an ''Authorized Participant Agreement'' with the Sponsor and the Transfer Agent. The Authorized Participant Agreement provides the procedures for the creation and redemption of Baskets and for the delivery of the cash (and, potentially, bitcoin in-kind) required for such creations and redemptions.

bitcoin between the time an order is placed and the time the final price is determined by the Trust will be borne by the Authorized Participant and not by the Trust.

The Sponsor makes available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange (a) the amount of cash required for a cash creation of a Basket (the ''Cash Basket Amount''), based on 100% of the NAV of the Shares per Basket as of the prior business day, which amount is applicable in order to effect cash purchases of Baskets until such time as the next announced amount is made available and (b) the bitcoin Basket Amount.

The payment required to create a Basket typically will be made in cash, but it may also be made partially or wholly in-kind at the discretion of the Sponsor if the Authorized Participant requests to convey bitcoin directly to the Trust. For a cash order to create, the Authorized Participant must deliver the Cash Basket Amount to the Cash Custodian on the day the order is placed and accepted and, potentially, an amount of cash on the business day after the order is placed and approved referred to as the ''Balancing Amount,'' computed as described below. Upon delivery of the Cash Basket Amount and the Balancing Amount to the Cash Custodian, the Transfer Agent will cause the Trust to issue a Basket to the Authorized Participant. Expenses incurred by the Trust relating to purchasing bitcoin in assembling a cash creation Basket, such as OTC market fees, bitcoin exchange-related fees and/or transaction fees, will be borne by Authorized Participants, rather than the Trust, through the transaction fee charged by the Trust.

The Balancing Amount is an amount equal to the difference between the NAV of the Shares (per Basket) at the end of the business day the order is placed and approved and the Cash Basket Amount. The Balancing Amount serves to compensate for any difference between the NAV per Basket and the Cash Basket Amount. The Balancing Amount may be positive (in which case the Authorized Participant will be required to transfer the corresponding amount of cash to the Cash Custodian) or negative (in which case the amount of cash required to be transferred by the Authorized Participant will be less than the Cash Basket Amount, and if the Authorized Participant has already delivered the full Cash Basket Amount, the corresponding amount of cash will be returned to the Authorized Participant). Authorized Participants will be notified of the Balancing Amount that must be paid to the Cash Custodian or refunded by the Cash Custodian, if any, by approximately 4:00 p.m., E.T. on the business day the order is placed and approved. The Balancing Amount must be paid to the Cash Custodian no later than 2:00 p.m. E.T. on the business day following the date the order was placed and approved. Upon delivery of the Cash Basket Amount and Balancing Amount to the Cash Custodian, the Transfer Agent will cause the Trust to issue a Basket to the Authorized Participant the following business day by 2:00 p.m., E.T.

To the extent the Authorized Participant places an in-kind order to create, the Authorized Participant must deliver the Bitcoin Basket Amount directly to the Trust (*i.e.,* to the security system that holds the Trust's bitcoin) no later than 4:00 p.m. E.T. on the date the purchase order is received and approved. Upon delivery of the bitcoin to the Trust's security system, the Transfer Agent will cause the Trust to issue a Basket to the Authorized Participant the following business day by 2:00 p.m., E.T. Payment of any tax or other fees and expenses payable upon transfer of bitcoin shall be the sole responsibility of the Authorized Participant purchasing a Basket. Expenses incurred by Authorized Participants relating to purchasing bitcoin in assembling an in-kind creation Basket, such as OTC market fees, bitcoin exchange-related fees and/or transaction fees, will be borne by Authorized Participants.

The Administrator, by email or telephone correspondence, shall notify the Authorized Participant of the NAV of the Trust and the corresponding amount of cash (in the case of a cash purchase order) to be included in a Balancing Amount by approximately 4:00 p.m. E.T. on the day the purchase order is placed and approved.

Redemption Procedures

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place an order with the Transfer Agent to redeem one or more Baskets. Cash redemption orders must be placed no later than 3:00 p.m. E.T., or the close of regular trading on the New York Stock Exchange, whichever is earlier, and redemption orders submitted in-kind must be placed by 4:00 p.m. E.T., or the close of regular trading on the Exchange, whichever is earlier. The day on which the Transfer Agent receives a valid redemption order, as approved by the Marketing Agent, is the ''redemption order date.'' Redemption orders are irrevocable. The redemption procedures allow only Authorized Participants to redeem Baskets. A shareholder may not redeem Baskets other than through an Authorized Participant.

By placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Trust not later than 4:00 p.m. E.T. on the business day immediately following the redemption order date. By placing a redemption order, and prior to receipt of the redemption proceeds, an Authorized Participant's DTC account will be charged the non-refundable transaction fee due for the redemption order.

Determination of Redemption Proceeds

The redemption proceeds from the Trust consist of the ''cash redemption amount'' or, if making an in-kind redemption, bitcoin. The cash redemption amount is equal to the U.S. dollar equivalent of the Total bitcoin Basket Amount requested in the Authorized Participant's redemption order as of the end of Regular Trading Hours on the redemption order date. The Cash Custodian will distribute the cash redemption amount at 4:00 p.m., E.T., on the business day immediately following the redemption order date through DTC to the account of the Authorized Participant as recorded on DTC's book-entry system. The bitcoin redemption amount will be the Total bitcoin Basket Amount. At the discretion of the Sponsor and if the Authorized Participant requests to receive bitcoin directly, some or all of the redemption proceeds may be distributed to the Authorized Participant in-kind by the Trust.

Orders to redeem Baskets must be placed no later than 3:00 p.m. E.T. for cash redemption orders and 4:00 p.m. E.T. for in-kind redemptions orders, but the total amount of redemption proceeds typically will not be determined until after 4:00 p.m. E.T. on the date the redemption order is received. Authorized Participants therefore will not know the total amount of the redemption proceeds at the time they submit an irrevocable redemption order.

Delivery of Redemption Proceeds

The redemption proceeds due from the Trust are delivered to the Authorized Participant at 4:00 p.m. E.T. on the business day immediately following the redemption order date if, by such time on such business day immediately following the redemption order date, the Trust's DTC account has

been credited with the Baskets to be redeemed. If the Trust's DTC account has not been credited with all of the Baskets to be redeemed by such time, the redemption distribution is delivered to the extent of whole Baskets received. The Sponsor may, but is not obligated to, extend the redemption date with respect to a redemption order for which whole Baskets have not been delivered by the Authorized Participant. In such event, the Sponsor may charge the Authorized Participant a fee for such extension to reimburse the Trust for any losses incurred from the Authorized Participant's failure to deliver whole Baskets (including, but not limited to, expenses incurred in selling bitcoin in respect of the redemption order and/or buying bitcoin back following the failure of the Authorized Participant to deliver whole Baskets, as well as losses to the Trust from movements in the market value of bitcoin between selling the bitcoin and buying it back). If the Sponsor extends the redemption date, any remainder of the redemption distribution is delivered on the next business day to the extent of remaining whole Baskets received if the Sponsor receives the fee applicable to the extension of the redemption distribution date and the remaining Baskets to be redeemed are credited to the Trust's DTC account by 4:00 p.m. E.T. on such next business day. Any further outstanding amount of the redemption order shall be cancelled.

The Sponsor makes available through the NSCC, prior to the opening of business on the Exchange on each business day, (a) for in-kind redemptions, the amount of bitcoin per Basket and (b) for cash redemptions, the amount of cash per Basket that will be applicable to redemption requests received in proper form.

As with creation orders, the NAV of the Shares per Basket as of the day on which a redemption request is received and approved will be calculated after the deadline for redemption orders. The amount of cash payable per Basket for a cash redemption order accordingly will be calculated after the redemption order is received. The Administrator, by email or telephone correspondence, shall notify the Authorized Participant of the NAV of the Trust and the corresponding amount of cash (in the case of a cash redemption order) to be payable per Basket by approximately 4:00 p.m. E.T. on the day the purchase order is placed and approved.

To the extent the Authorized Participant places an in-kind order to redeem a Basket, the Trust will deliver, on the business day immediately following the day the redemption order is received, the Total bitcoin Basket Amount. Expenses relating to transferring bitcoin to an Authorized Participant in a redemption Basket will be borne by Authorized Participants via the redemption transaction fee.

Availability of Information

The Trust's website will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the mid-point of the bid-ask price [13] in relation to the NAV as of the time the NAV is calculated (''Bid-Ask Price'') and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the MVBTCO, including key elements of how the MVBTCO is calculated, will be publicly available at *www.mvis-indices.com/*.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. To the extent that the Administrator has utilized the cascading set of rules described in ''bitcoin Market Price'' above, the Trust's website will note the valuation methodology used and the price per bitcoin resulting from such calculation. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the MVBTCO. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

The Trust will provide website disclosure of its bitcoin holdings daily. The website disclosure of the Trust's bitcoin holdings will occur at the same time as the disclosure by the Sponsor of the bitcoin holdings to Authorized Participants so that all market participants are provided such portfolio information at the same time. Therefore, the same portfolio information will be provided on the public website as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current bitcoin holdings of the Trust through the Trust's website.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) Issued by a trust that holds a specified commodity [14] deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when

[13] The bid-ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

[14] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act. As noted above, the CFTC has opined that Bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange Act. *See* Coinflip.

aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity. The Exchange notes that in addition to the in-kind creation and redemption processes described in Rule 14.11(e)(4)(C)(i), the Trust will also offer creations and redemptions of Shares for cash in addition to creating and redeeming in-kind. The Trust represents that the ability to create and redeem for cash will allow APs that may otherwise be unwilling or unable to source bitcoin on their own behalf to participate in the creation and redemption of Shares.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

The Trust currently expects that there will be at least 100 Shares outstanding at the time of commencement of trading on the Exchange, which the Exchange believes to be sufficient to provide adequate market liquidity. Assuming a bitcoin price of $8,000 and approximately 25 bitcoin per Share, the Shares would be approximately $200,000 each. With a minimum of 100 Shares outstanding, the market value of all Shares outstanding would be approximately $20,000,000. Rules 14.11(e)(4)(C)(ii)(b) [sic] and (c) provide that the Exchange will commence delisting proceedings for a series of Commodity-Based Trust Shares where the applicable trust has fewer than 50,000 receipts or the market value of all receipts issued and outstanding is less than $1,000,000, respectively, following the initial 12 month period following commencement of trading on the Exchange. These rules are designed to ensure that there are sufficient shares and market value outstanding to facilitate the creation and redemption process and ensure that the arbitrage mechanism will keep the price of a series of Commodity-Based Trust Shares in line with its NAV and prevent manipulation in the shares. The Exchange is proposing that Rule 14.11(e)(4)(C)(ii)(b) [sic] would not apply to the Shares because the Exchange believes that such policy concerns are otherwise mitigated. The lower number of Shares is merely a function of price that will have no impact on the creation and redemption process and the arbitrage mechanism. Whether the Shares are priced equal to 25 bitcoin with a Basket of 5 Shares or the Shares are priced equal to .025 bitcoin with a Basket of 5,000 Shares, the cost to an AP to create or redeem will be the exact same and such a creation and redemption will have the same proportional impact on Shares and market value outstanding. Because the creation units and redemption units for most exchange-traded products are between 5,000 and 50,000 shares, it makes sense to apply a minimum number of shares outstanding to such products. Where a creation unit is 5 shares, the policy concerns that Rule 14.11(e)(4)(C)(ii)(b) [sic] is designed to address are mitigated even where there are significantly fewer shares outstanding. As such, the Exchange is proposing that it would not commence delisting proceedings for the Shares if the Shares do not satisfy Rule 14.11(e)(4)(C)(ii)(b) [sic].

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the bitcoin underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect

violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the Intermarket Surveillance Group (''ISG''), from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[15] In addition, the Exchange may obtain information about bitcoin transactions, trades and market data from bitcoin exchanges with which the Exchange has entered into a comprehensive surveillance sharing agreement as well as certain additional information that is publicly available through the Bitcoin blockchain. The Exchange notes that it has entered into a comprehensive surveillance sharing agreement with Gemini Exchange.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares during the Pre-Opening[16] and After Hours Trading Sessions[17] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Policy Considerations

The Exchange recognizes that certain policy concerns exist as it relates to any series of Commodity-Based Trust Shares that are listed on the Exchange, but that these concerns, as well as certain other concerns raised by this proposal specifically, are mitigated as it relates to the Trust and its holdings for the reasons enumerated below.

First, the Exchange believes that the policy concerns related to an underlying reference asset and its susceptibility to manipulation are mitigated as it relates to bitcoin because the very nature of the bitcoin ecosystem makes manipulation of bitcoin difficult. Particularly, in the OTC markets, the dual elements of principal to principal trading combined with the large size at which trades are effected should effectively eliminate the ability of market participants to manipulate the market with small trades as may be the case on any individual exchange. As noted above, the OTC desks that comprise the MVBTCO with which the Trust intends to effect transactions are well established institutions that comply with AML and KYC regulatory requirements with respect to trading counterparties and include entities that are regulated by the SEC and FINRA as registered broker-dealers and affiliates of broker-dealers. It is the Sponsor's position that the OTC desks have a better measure of the market than any exchange-specific reference price, whether individually or indexed across multiple exchanges. The geographically diverse and continuous nature of bitcoin trading makes it difficult and prohibitively costly to manipulate the price of bitcoin and, in many instances, the bitcoin market is generally less susceptible to manipulation than the equity, fixed income, and commodity futures markets. There are a number of reasons this is the case, including that there is not inside information about revenue, earnings, corporate activities, or sources of supply; it is generally not possible to disseminate false or misleading information about bitcoin in order to manipulate; manipulation of the price on any single venue would require manipulation of the global bitcoin price in order to be effective; a substantial over-the-counter market provides liquidity and shock-absorbing capacity; bitcoin's 24/7/365 nature provides constant arbitrage opportunities across all trading venues; and it is unlikely that any one actor could obtain a dominant market share.

Further, bitcoin is arguably less susceptible to manipulation than other commodities that underlie ETPs; there may be inside information relating to the supply of the physical commodity such as the discovery of new sources of supply or significant disruptions at mining facilities that supply the commodity that simply are inapplicable as it relates to bitcoin. Further, the Exchange believes that the fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity unlikely. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences. For all of these reasons, bitcoin is not particularly susceptible to manipulation, especially as compared to other approved ETP reference assets.

Second, the Trust maintains crime, excess crime and excess vault risk insurance coverage underwritten by various insurance carriers that will cover the entirety of the Trust's bitcoin holdings. While the Trust remains fully confident in its system for securing its bitcoin, insurance coverage of all of the Trust's bitcoin holdings eliminates exposure to the risk of loss to investors through fraud or theft, which in turn eliminates most of the custodial issues

[15] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[16] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[17] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

associated with a series of Commodity-Based Trust Shares based on bitcoin.

Finally, the Sponsor expects that the Shares will be purchased primarily by institutional and other substantial investors (such as hedge funds, family offices, private wealth managers and high-net-worth individuals), which will provide additional liquidity and transparency to the bitcoin market in a regulated vehicle such as the Trust. With an estimated initial per-share price equivalent to 25 bitcoin, the Shares will be cost-prohibitive for smaller retail investors while allowing larger and generally more sophisticated institutional investors to gain exposure to the price of bitcoin through a regulated product while eliminating the complications and reducing the risk associated with buying and holding bitcoin.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [18] in general and Section 6(b)(5) of the Act [19] 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information about bitcoin transactions, trades and market data from bitcoin exchanges with which the Exchange has entered into a comprehensive surveillance sharing agreement as well as certain additional information that is publicly available through the Bitcoin blockchain. The Exchange notes that it has entered into a comprehensive surveillance sharing agreement with Gemini Exchange.

The proposal is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Commodity-Based Trust Shares based on the price of bitcoin that will enhance competition among market participants, to the benefit of investors and to the marketplace, and will allow institution and other substantial investors access to bitcoin exposure without requiring direct access to the bitcoin market and the associated complications. Despite the growing investor interest in bitcoin, the primary means for investors to gain access to bitcoin exposure remains either through direct investment through bitcoin exchanges, over-the-counter trading, or bitcoin derivatives contracts. For investors simply wishing to express an investment viewpoint in bitcoin, investment through derivatives is complex and requires active management and direct investment in bitcoin brings with it significant inconvenience, complexity, expense, and risk. The Shares would therefore represent a significant innovation in the bitcoin market by providing an inexpensive and simple vehicle for investors to gain exposure to bitcoin in a secure and easily accessible product that is familiar and transparent to investors. Such an innovation would help to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest by improving investor access to bitcoin exposure through efficient and transparent exchange-traded derivative products.

As noted above, the Sponsor expects that the Shares will be purchased primarily by institutional and other substantial investors (such as hedge funds, family offices, private wealth managers and high-net-worth individuals), which will provide additional liquidity and transparency to the bitcoin market in a regulated vehicle such as the Trust. With an estimated initial per-share price equivalent to 25 bitcoin, the Shares will be cost-prohibitive for smaller retail investors while allowing larger and generally more sophisticated institutional investors to gain exposure to the price of bitcoin through a regulated product while eliminating the complications and reducing the risk associated with buying and holding bitcoin.

The Exchange also believes that allowing cash creations and redemptions, in addition to the in-kind creations described in Rule 14.11(e)(4)(C)(i), will allow APs that may otherwise be unwilling or unable to source bitcoin on their own behalf to participate in the creation and redemption of Shares, further acting to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange also believes that not commencing delisting proceedings for the Shares if the Shares do not satisfy Rule 14.11(e)(4)(C)(ii)(b) [sic] is consistent with the Act because where a creation unit is 5 shares, the policy concerns that Rule 14.11(e)(4)(C)(ii)(b) [sic] is designed to address related to minimum receipts outstanding following the 12 month period following commencement of trading on the Exchange are mitigated even where there are significantly fewer shares outstanding. The Exchange believes that the lower number of Shares is merely a function of price that will have no impact on the creation and redemption process and the arbitrage mechanism.

The Exchange also believes that the proposal promotes market transparency in that a large amount of information is currently available about bitcoin and will be available regarding the Trust and the Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. The spot price of bitcoin is available on a 24-hour basis from major market data vendors, including Bloomberg and Reuters, as well as the MVBTCO. Information relating to trading, including price and volume information, in bitcoin is available from

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(5).

major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year. The Trust will provide website disclosure of its bitcoin holdings daily. The website disclosure of the Trust's bitcoin holdings will occur at the same time as the disclosure by the Sponsor of the bitcoin holdings to Authorized Participants so that all market participants are provided such portfolio information at the same time. The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the Bid-Ask Price and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the MVBTCO, including key elements of how the MVBTCO is calculated, will be publicly available at *www.mvis-indices.com/.* The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The Exchange also recognizes that certain broader policy concerns exist as it relates to any series of Commodity-Based Trust Shares that are listed on the Exchange, but that these concerns, as well as certain other concerns raised by this proposal and related to bitcoin specifically, are mitigated as it relates to the Trust and its holdings for the reasons enumerated below.

First, the Exchange believes that the policy concerns related to an underlying reference asset and its susceptibility to manipulation are mitigated as it relates to bitcoin because the very nature of the bitcoin ecosystem makes manipulation of bitcoin difficult. Particularly, in the OTC markets, the dual elements of principal to principal trading combined with the large size at which trades are effected should effectively eliminate the ability of market participants to manipulate the market with small trades as may be the case on any individual exchange. As noted above, the OTC desks that comprise the MVBTCO with which the Trust intends to effect transactions are well established institutions that comply with AML and KYC regulatory requirements with respect to trading counterparties and include entities that are regulated by the SEC and FINRA as registered broker-dealers and affiliates of broker-dealers. It is the Sponsor's position that the OTC desks have a better measure of the market than any exchange-specific reference price, whether individually or indexed across multiple exchanges. The geographically diverse and continuous nature of bitcoin trading makes it difficult and prohibitively costly to manipulate the price of bitcoin and, in many instances, the bitcoin market is generally less susceptible to manipulation than the equity, fixed income, and commodity futures markets. There are a number of reasons this is the case, including that there is not inside information about revenue, earnings, corporate activities, or sources of supply; it is generally not possible to disseminate false or misleading information about bitcoin in order to manipulate; manipulation of the price on any single venue would require manipulation of the global bitcoin price in order to be effective; a substantial over-the-counter market provides liquidity and shock-absorbing capacity; bitcoin's 24/7/365 nature provides constant arbitrage opportunities across all trading venues; and it is unlikely that any one actor could obtain a dominant market share.

Further, bitcoin is arguably less susceptible to manipulation than other commodities that underlie ETPs; there may be inside information relating to the supply of the physical commodity such as the discovery of new sources of supply or significant disruptions at mining facilities that supply the commodity that simply are inapplicable as it relates to bitcoin. Further, the Exchange believes that the fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity unlikely. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences. For all of these reasons, bitcoin is not particularly susceptible to manipulation, especially as compared to other approved ETP reference assets.

Second, the Trust maintains crime, excess crime and excess vault risk insurance coverage underwritten by various insurance carriers that will cover the entirety of the Trust's bitcoin holdings. While the Trust remains fully confident in its system for securing its bitcoin, insurance coverage of all of the Trust's bitcoin holdings eliminates exposure to the risk of loss to investors through fraud or theft, which in turn eliminates most of the custodial issues associated with a series of Commodity-Based Trust Shares based on bitcoin.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2018–040 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–CboeBZX–2018–040. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–040, and should be submitted on or before July 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–14114 Filed 6–29–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15576 and #15577; MARYLAND Disaster Number MD–00036]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Maryland

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maryland (FEMA–4374–DR), dated 06/25/2018.

Incident: Severe Storms and Flooding.

Incident Period: 05/15/2018 through 05/19/2018.

DATES: Issued on 06/25/2018.

Physical Loan Application Deadline Date: 08/24/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 03/25/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/25/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Frederick, Washington

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere ...	2.500
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere ...	2.500

The number assigned to this disaster for physical damage is 155766 and for economic injury is 155770.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–14164 Filed 6–29–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15574 and #15575; Oklahoma Disaster Number OK–00122]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4373–DR), dated 06/25/2018.

Incident: Wildfires.

Incident Period: 04/11/2018 through 04/20/2018.

DATES: Issued on 06/25/2018.

Physical Loan Application Deadline Date: 08/24/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 03/25/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/25/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

[20] 17 CFR 200.30–3(a)(12).

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Custer, Dewey, Harmon, Roger Mills, Woodward.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155745 and for economic injury is 155750.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–14163 Filed 6–29–18; 8:45 am]

BILLING CODE 8025–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule 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, 717–238–0423, ext. 1312, *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22 (f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Chesapeake Appalachia, L.L.C., Pad ID: Parkhurst, ABR–201309017.R1, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 9, 2018.

2. SWN Production Company, LLC, Pad ID: Martin (Pad 11), ABR–201304009.R1, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 9, 2018.

3. SWN Production Company, LLC, Pad ID: Ferguson-Keisling (Pad B), ABR–201304010.R1, Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 9, 2018.

4. SWN Production Company, LLC, Pad ID: Tice (13 Pad), ABR–201304011.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 9, 2018.

5. SWN Production Company, LLC, Pad ID: RU–23 MITCHELL PAD, ABR–201304012.R1, New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 9, 2018.

6. Repsol Oil & Gas USA, LLC, Pad ID: TWIN RIDGE (02 185), ABR–201804001, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 13, 2018.

7. Cabot Oil & Gas Corporation, Pad ID: MooreS P1, ABR–201804002, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: April 13, 2018.

8. Repsol Oil & Gas USA, LLC, Pad ID: HUGHES (02 204) E, ABR–201804003, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 18, 2018.

9. SWEPI LP, Pad ID: Flack 502, ABR–201304014.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 20, 2018.

10. SWEPI LP, Pad ID: Edkin 499, ABR–201304018.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 20, 2018.

11. SWN Production Company, LLC, Pad ID: WY–10–FALCONERO–PAD, ABR–201804004, Forkston Township, Wyoming County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 23, 2018.

12. Campbell Oil & Gas, Inc., Pad ID: Mid Penn Unit A Well Pad, ABR–201304002.R1, Bigler Township, Clearfield County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 24, 2018.

13. Seneca Resources Corporation, Pad ID: Gamble Pad K, ABR–201309018.R1, Lewis and Gamble Townships, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 27, 2018.

14. Chief Oil & Gas LLC, Pad ID: Loch Drilling Pad, ABR–201311001.R1, Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 30, 2018.

15. Chief Oil & Gas LLC, Pad ID: Kupscznk D Drilling Pad, ABR–201311003.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 30, 2018.

16. Repsol Oil & Gas USA, LLC, Pad ID: KROPP (07 017) C, ABR–201305010.R1, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 30, 2018.

17. Repsol Oil & Gas USA, LLC, Pad ID: TAYLOR BUCKHORN LAND CO (07 010), ABR–201305011.R1, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 30, 2018.

18. Repsol Oil & Gas USA, LLC, Pad ID: SCHMITT (07 043) D, ABR–201305012.R1, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 30, 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. 2018–14092 Filed 6–29–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; Kivalina Airport, Kivalina, Alaska.

SUMMARY: The FAA is considering a proposal to change 2.31 acres of airport land from aeronautical use to non-aeronautical use and to authorize the construction of a public use road on airport property located at Kivalina Airport, Kivalina, Alaska. The aforementioned land is not needed for aeronautical use.

The community of Kivalina is located on a barrier island in the Arctic Ocean. Currently the only access to the community is via airplane or boat. The State of Alaska, owner and sponsor of the Kivalina Airport, is requesting the

land use change be allowed to accommodate construction of a surface evacuation route (bridge/road) to the mainland. FAA environmental analysis for this action is pending.

DATES: Comments must be received on or before August 1, 2018.

ADDRESSES: Documents are available for review by appointment at the FAA Anchorage Airports Regional Office, Molly Lamrouex, Compliance Manager, 222 W 7th Avenue, Anchorage, AK. Telephone: (907) 271–5439/Fax: (907) 271–2851 and the State of Alaska Department of Transportation and Public Facilities, Fairbanks Office, 2301 Peger Road, Fairbanks, AK. Telephone: (907) 451–5226.

Written comments on the Sponsor's request must be delivered or mailed to: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Airports Anchorage Regional Office, 222 W 7th Avenue, Anchorage AK 99513, Telephone Number: (907) 271–5439/ FAX Number: (907) 271–2851.

FOR FURTHER INFORMATION CONTACT: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Alaskan Region Airports District Office, 222 W 7th Avenue, Anchorage, AK 99513. Telephone Number: (907) 271–5439/FAX Number: (907) 271–2851.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property is located south of the existing runway outside of the runway protection zone. The land was acquired via patent transfer from the federal government in 1963. The sponsor proposes to allow construction of a community road for no fee to accommodate emergency evacuation of the residents.

The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Kivalina Airport, Kivalina, Alaska from its obligations to be maintained for aeronautical purposes. Approval does not constitute a commitment by the FAA to financially assist in the change in use of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

The proposed release area includes 2.31 acres for the proposed road alignment through the south end of airport property tract I.

Issued in Anchorage, Alaska, on June 26, 2018.

Kristi Warden,

Acting Director, Alaskan Airports Regional Office, FAA, Alaskan Region.

[FR Doc. 2018–14195 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Rescission of a Notice of Intent (NOI) To Prepare an Environmental Impact Statement (EIS)

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the 2002 NOI to prepare an EIS for the proposed construction of a new segment of Interstate 66 (I–66) between the Somerset Northern Bypass and London, Kentucky.

FOR FURTHER INFORMATION CONTACT: Thomas Nelson, Jr., Division Administrator, Federal Highway Administration, Kentucky Division, 330 South Broadway Street, Frankfort, Kentucky, 40601, Telephone: (502) 223–6720.

SUPPLEMENTARY INFORMATION: The FHWA, as the lead Federal agency, in cooperation with the Kentucky Transportation Cabinet (KYTC), published a NOI on April 29, 2002 to prepare an EIS for the construction of a new segment of I–66 between the Somerset Northern Bypass and London, Kentucky. Subsequently, FHWA and KYTC developed a DEIS that was signed on June 1, 2006. FHWA hereby advises the public, after coordination with the KYTC, that we are rescinding the NOI for the project and cancelling any work associated with the EIS due to the potential significant environmental impacts and the lack of future programmed funding.

Any future Federal-aided action within this corridor will comply with the environmental review requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321), FHWA environmental regulations (23 CFR 771) and related authorities, as appropriate. Comments and questions concerning this action should be directed to FHWA at the address provided above.

Issued on: June 25, 2018

Thomas Nelson, Jr.,

Division Administrator, FHWA Kentucky Division, Frankfort, Kentucky.

[FR Doc. 2018–14157 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors meeting.

TIME AND DATE: The meeting will be held on July 12, 2018, from 12:00 noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–422–1931, passcode 2855443940, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and, to that end, may consider matters properly before the Board. An agenda for this meeting will be available no later than 5:00 p.m. Eastern Daylight Time, July 3, 2018, at: *https://ucrplan.org.*

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: June 27, 2018.

Larry W. Minor

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2018–14355 Filed 6–28–18; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–5]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, U.S. Department of Transportation.

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, the Federal Railroad Administration (FRA) seeks to renew the existing information collection abstracted below. FRA is soliciting public comment on the activities identified below before submitting this collection to the Office of Management and Budget (OMB) for approval.

DATES: Interested persons are invited to submit comments on or before August 31, 2018.

ADDRESSES: Submit written comments on the information collection activities by mail to either: Mr. Michael E. Jones, Information Collection Officer, Office of Railroad Policy & Development, Human Factors Division, RPD–34, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–119, Washington, DC 20590; or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W34–212, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB Control Number 2130–0615,'' and should also include the title of the information collection. Alternatively, comments may be faxed to (202) 493–6333 or (202) 493–6497, or emailed to Mr. Jones at *Michael.E.Jones@dot.gov,* or Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Michael E. Jones, Information Collection Officer, Office of Railroad Policy & Development, Human Factors Division, RPD–34, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–119, Washington, DC 20590 (telephone: (202) 493–6106), or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W34–212, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, Title 5 of the Code of Federal Regulations (CFR) part 1320, require Federal agencies to provide 60-days notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–12. FRA invites interested parties to comment on the following information collection regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. FRA reasons that comments received will advance three objectives: (1) Reducing reporting burdens; (2) organizing information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assessing the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the information collection that FRA will submit to OMB for renewal as the PRA requires:

Title: Grant Management Requirements for Federal Railroad Administration Grant Awards and Cooperative Agreements (''Awards'').

OMB Control Number: 2130–0615.

Abstract: FRA is an Operating Administration of the U.S. Department of Transportation (DOT). FRA solicits grant applications for projects including, but not limited to, preconstruction planning activities, safety improvements, congestion relief, improvement of grade crossings, rail line relocation, as well as projects that encourage development, expansion, and upgrades to passenger and freight rail infrastructure and services. FRA funds projects that meet FRA and government-wide evaluation standards and align with the DOT Strategic Plan.

FRA administers award agreements for both construction and non-construction projects that will result in benefits or other tangible improvements in rail corridors, service, safety, and technology. These projects include completion of preliminary engineering, environmental, research and development, final design, and construction.

FRA requires systematic and uniform collection and submission of information, as approved by OMB, to ensure accountability of Federal assistance provided by FRA. Through this information collection, FRA will measure Federal award recipients' performance and results, including expenditures in support of agreed-upon activities and allowable costs outlined in a FRA Notice of Grant Award (NGA). This information collection includes OMB-required reports and documentation, as well as additional forms and submissions to compile evidence relevant to addressing FRA's important policy challenges, promoting cost-effectiveness in FRA programs, and providing effective oversight of programmatic and financial performance.

FRA issues and manages awards in compliance with 2 CFR part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The forms for which FRA is seeking renewal of its current approval in this information collection are listed below. All non-research awards are subject to the application, reporting, closeout, and other processes described in this justification.

Form(s): All FRA forms may be located at FRA's public website; all SF forms may be located at *Grants.gov.* FRA forms 30 (FRA Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters and Drug-Free Workplace Requirements), 31 (Grant Adjustment Request Form), 32 (Service Outcome Agreement Annual Reporting), 33 (Final Performance Report), 34 (Quarterly Progress Report), 35 (Application Form), 217 (Categorical Exclusion Worksheet), and 229 (NIST Manufacturing Extension Partnership Supplier Scouting—FRA—Item Opportunity Synopsis). SF forms 270 (Request for Advance or Reimbursement), 424 (Application for Federal Assistance), 424A (Budget Information for Non-Construction Programs), 424B (Assurances for Non-Construction Programs), 424C (Budget Information for Construction Programs), 424D (Assurances for Construction Programs), 425 (Federal Financial Report), and LLL (Disclosure of Lobbying Activities).

Respondent Universe: Generally includes State and local governments and railroads.

Frequency of Submission: On occasion.

Reporting Burden:

BURDEN HOURS

	Form	Number of respondents	Hours	Frequency	Total burden hours
Application	FRA F 35	250	34.00	1.00	8,500.00
Application	SF 424	250	1.10	1.00	275.00
Application	SF 424A	75	3.00	1.00	225.00
Application	SF 424B	75	0.25	1.00	18.75
Application	SF 424C	175	3.00	1.00	525.00
Application	SF 242D	175	0.25	1.00	43.75
Application	SF LLL	250	0.17	1.00	42.50
Application	FRA F 30	250	0.25	1.00	62.50
Subtotal			42.02		9,692.50
Award & Maintenance	FRA F 229	64	311.71	1.00	19,949.44
Award & Maintenance	SF 270	860	1.00	1.00	860.00
Award & Maintenance	FRA F 34	341	2.00	4.00	2,728.00
Award & Maintenance	SF 425	341	1.50	4.00	2,046.00
Award & Maintenance	FRA F 31	212	1.00	1.00	212.00
Award & Maintenance	FRA F 32	24	1.00	1.00	24.00
Award & Maintenance	FRA F 217	50	156.00	1.00	7,800.00
Award & Maintenance	Environmental Impact Statement (EIS).	2	15,552.00	1.00	31,104.00
Award & Maintenance	Environmental Assessment (EA)	4	3,120.00	1.00	12,480.00
Subtotal			19,146.21		77,203.44
Closeout	FRA F 33	79	8.00	1.00	632.00
Total		3,477			174,423.88

Total Estimated Annual Responses: 3,477.

Total Estimated Annual Burden: 174,423.88.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Mathew Michael Sturges,

Deputy Administrator.

[FR Doc. 2018–14339 Filed 6–28–18; 4:15 pm]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0107]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CARPE DIEM; 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 August 1, 2018.

ADDRESSES: Comments should refer to docket number MARAD–2018–0107. 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 CARPE DIEM is:

—*Intended Commercial Use of Vessel:* ''Charter's for up to 12 passengers''

—*Geographic Region:* ''California, Oregon, Florida''

The complete application is given in DOT docket MARAD–2018–0107 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)

* * * * *

Date: June 27, 2018.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–14141 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0074; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2012 Mercedes Benz CLS 63 AMG Passenger Cars Manufactured for the Mexican Market Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that certain model year (MY) 2012 Mercedes Benz CLS 63 AMG passenger cars manufactured for the Mexican market that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2012 Mercedes Benz CLS 63 AMG passenger cars) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 1, 2018.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories (WETL), of Houston, Texas (Registered Importer R–90–005) has petitioned NHTSA to decide whether nonconforming MY 2012 Mercedes Benz CLS 63 AMG passenger cars originally manufactured for the Mexican market are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are MY 2012 Mercedes Benz CLS 63 AMG passenger cars sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2012 Mercedes Benz CLS 63 AMG passenger cars manufactured for the Mexican market to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

WETL submitted information with its petition intended to demonstrate that those non-U.S. certified MY 2012 Mercedes Benz CLS 63 AMG passenger cars, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non U.S.-certified MY 2012 Mercedes Benz CLS 63 AMG passenger cars, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 114 *Theft Protection and Rollaway Prevention,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* and *302 Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S. certified passenger cars are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* The instrument cluster can be programmed by the driver to display in metric or standard units as well as multiple languages without hardware or software changes. The brake warning telltale must be modified by replacing the tachometer, changing the faceplate of the current tachometer, or adding a new brake telltale.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* The headlamps and taillamps must be removed and replaced with conforming lamps.

Standard No. 110 *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less:* The vehicle requires addition of a conforming tire and rim information label.

Standard No. 111 *Rearview Mirrors:* The passenger side mirror must be etched with the phrase ''OBJECTS IN MIRROR ARE CLOSER THAN THEY APPEAR.'' This will be achieved by applying a photomask template bearing the phrase, and sandblasting the photomasked area with 150 grit aluminum oxide.

Standard No. 301 *Fuel System Integrity:* The vehicle must be equipped with a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Wallace further states that labels will be affixed to conform the vehicle to the requirements of 49 CFR parts 565 and 567, *VIN Content* and *Certification,* respectively.

This notice of receipt of WETL's petition does not represent any agency decision or other exercise of judgment concerning the merits of the petition. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Michael A. Cole,

Acting Director Office of Vehicle Safety Compliance.

[FR Doc. 2018–14206 Filed 6–29–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Request for Payment of Federal Benefit by Check, EFT Waiver Form

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Request for Payment of Federal Benefit by Check, EFT Waiver Form.

DATES: Written comments should be received on or before August 31, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Payment of Federal Benefit by Check, EFT Waiver Form.

OMB Number: 1530–0019.

Form Number: FS Form 1201W, FS Form 1201W–DFAS, FS Form 1201W (SP).

Abstract: 31 CFR part 208 requires that all Federal non-tax payments be made by electronic funds transfer (EFT). The forms are used to collect information from individuals requesting a waiver from the EFT requirement because of a mental impairment, living in a remote geographic location that does not support the use of EFT, or persons born on or before May 1, 1921. These individuals may continue to receive payment by check. However, 31 CFR part 208 requires individuals requesting one of these waiver conditions to submit a written justification that is notarized by a notary public. In order to assist individuals with this submission, Treasury has prepared waiver forms in order to collect all necessary information.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 3,250.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 1,083.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up

costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 26, 2018.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2018–14204 Filed 6–29–18; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Research Advisory Committee

AGENCY: Office of Financial Research, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: The Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) is convening for its 12th meeting on Thursday, July 26, 2018, in the Benjamin Strong Room, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, beginning at 11:00 a.m. EST. The meeting will be open to the public and limited seating will be available.

DATES: The meeting will be held on Thursday, July 26, 2018, beginning at 11:00 a.m. EST.

ADDRESSES: The meeting will be held in the Benjamin Strong Room, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045. The meeting will be open to the public. A limited number of seats will be available for those interested in attending the meeting, and those seats would be on a first-come, first-served basis. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting MUST contact the OFR by email at *OFR_FRAC@ofr.treasury.gov* by 5 p.m. EST on Thursday, July 19, 2018, to inform the OFR of their desire to attend the meeting and receive further instructions about building clearance.

FOR FURTHER INFORMATION CONTACT: Melissa Avstreih, Designated Federal Officer, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 927–8032 (this is not a toll-free number), or *OFR_FRAC@ofr.treasury.gov.* Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a)(2), through implementing regulations at 41 CFR 102–3.150, *et seq.*

Public Comment: Members of the public wishing to comment on the business of the Financial Research Advisory Committee are invited to submit written statements by any of the following methods:

- *Electronic Statements.* Email the Committee's Designated Federal Officer at *OFR_FRAC@ofr.treasury.gov.*
- *Paper Statements.* Send paper statements in triplicate to the Financial Research Advisory Committee, Attn: Melissa Avstreih, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

The OFR will post statements on the committee's website, *http://www.financialresearch.gov,* including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. The OFR will also make such statements available for public inspection and copying in the Department of the Treasury's library, Annex Room 1020, 1500 Pennsylvania Avenue NW, Washington, DC 20220 on official business days between the hours of 8:30 a.m. and 5:30 p.m. EST. You may make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: The committee provides an opportunity for researchers, industry leaders, and other qualified individuals to offer their advice and recommendations to the OFR, which, among other things, is responsible for collecting and standardizing data on financial institutions and their activities and for supporting the work of Financial Stability Oversight Council.

This is the 12th meeting of the Financial Research Advisory Committee. Topics to be discussed include central counterparty resolution, U.S. corporate bond market liquidity, and regulatory reporting requirements. For more information on the OFR and the committee, please visit the OFR website at *http://www.financialresearch.gov.*

Dated: June 29, 2018.

Barbara Shycoff,

Chief of External Affairs.

[FR Doc. 2018–14168 Filed 6–29–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Agency information Collection Activity: Application by Insured Terminally Ill Person for Accelerated Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice to withdraw.

SUMMARY: On June 22, 2018, the Department of Veterans Affairs (VA) erroneously posted a consecutive 30-day **Federal Register** Notice (Application by Insured Terminally Ill Person for Accelerated Benefits) Document Number: 2018–13397; OMB control number: 2900–0618.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at 202–461–5870.

Correction

VA wishes to inform the public that it is withdrawing FR Document Number: 2018–13397, 83 FR 29155. This was a duplicate 30-day Public Notice published in error. The correct and initial 30-day Notice posted May 24, 2018, Volume 83, No. 101, page 24163, FR Document Number: 2018–11131, which has since concluded.

Dated: June 26, 2018.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–14104 Filed 6–29–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0074]

Agency Information Collection Activity: Request for Change of Program or Place of Training

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of

information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 1, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0074'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Department Clearance Officer—OI&T (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *Cynthia.harvey.pryor@va.gov.* Please refer to ''OMB Control No. 2900–0074.''

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3034; 44 U.S.C. 3501–3521.

Title: Request for Change of Program or Place of Training (VA Form 22–1995).

OMB Control Number: 2900–0074.

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: Claimants receiving educational benefits complete a VA Form 22–1995 to request a change in program or training establishment. VA uses the data collected to determine to the claimant's eligibility for continued educational benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 17, 2018, at page 16924.

Affected Public: Individuals and Households.

Estimated Annual Burden: 57,009 hours.

Estimated Average Burden per Respondent: 20 minutes (paper); 15 minutes (electronic).

Frequency of Response: Once Annually.

Estimated Number of Respondents: 184,874.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–14188 Filed 6–29–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Agency Information Collection Activity Under OMB Review: Appeal to Board of Veterans' Appeals

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Board of Veterans' Appeals, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 1, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0085'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0085'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 115–55; 38 U.S.C. 5104B, 5108, 5701, 5901, 7103, 7104, 7105, 7101.

Title: Appeal to Board of Veterans' Appeals, VA Form 9; Services Withdrawal by Representative; Requests for Change to Hearing Date; Motions for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract: Appellate review of the denial of VA benefits may only be completed by filing a VA Form 9, ''Appeal to Board of Veterans' Appeals.'' 38 U.S.C. 7105(a) and (d)(3). Additionally, the proposed information collections allow for withdrawal of services by a representative, requests for changes in hearing dates and methods under 38 U.S.C. 7107, and motions for reconsideration pursuant to 38 U.S.C. 7103(a).

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 18878 on April 30, 2018.

Affected Public: Individuals and households.

Estimated Annual Burden: 59,770 hours.

Estimated Average Burden per Respondent: 61.196 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 58,602.

By direction of the Secretary.

Cynthia D. Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–14105 Filed 6–29–18; 8:45 am]

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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