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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Changes to Current Addresses and Geographic Jurisdictions

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: This document amends regulations listing the current addresses and describing the geographic jurisdictions of the Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel. These changes reflect the closing of the Dallas Regional Office and changes to the geographical jurisdictions of the Atlanta, Chicago, and Denver Regional Directors.

DATES: Effective September 21, 2018.

FOR FURTHER INFORMATION CONTACT: William Tosick, Executive Director, Federal Labor Relations Authority, 1400 K St. NW, Washington, DC 20424, (202) 218–7791, *wtosick@flra.gov*.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority and the General Counsel published, at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority and the General Counsel under chapter 71 of title 5 of the United States Code. These rules and regulations are required by title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR chapter XIV (2018).

After an examination of budgets, caseloads, rental costs, operating costs, and staffing, the Authority is closing its Dallas Regional Office and reassigning its jurisdiction to the Denver and Atlanta Regional Directors, effective September 21, 2018. It is also reassigning jurisdiction for the state of South Dakota from the Denver Regional Director to the Chicago Regional Director. The Authority expects no adverse effect on the quality or efficiency of casehandling as a result of the Dallas Regional Office closure.

This amendment updates paragraphs (d) and (f) of Appendix A to 5 CFR chapter XIV to reflect the new organizational structure by removing the Dallas Regional Office from the list of current addresses, telephone numbers, and fax numbers of the Authority's Regional Offices and by revising the geographical jurisdictions of the Federal Labor Relations Authority. As this rule pertains to agency organization, procedure, or practice, it is exempt from prior notice and public comment pursuant to 5 U.S.C. 553(b)(A). For this same reason, pursuant to 5 U.S.C. 553(d)(3), the Authority finds that good cause exists for not providing a more delayed effective date. This type of action is also exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011), and 13771 (82 FR 9339, February 3, 2017).

For additional information regarding case handling procedures following the Dallas Regional Office closure, please go to *www.flra.gov*.

List of Subjects in 5 CFR Chapter XIV

Administrative practice and procedure.

Chapter XIV—Federal Labor Relations Authority

For the reasons set forth in the preamble and under the authority of 5 U.S.C. 7134, the authority amends 5 CFR chapter XIV as follows:

■ 1. Appendix A to 5 CFR chapter XIV is amended by removing paragraph (d)(5), redesignating paragraphs (d)(6) and (7) as (d)(5) and (6), and revising paragraph (f) to read as follows:

Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(f) The geographic jurisdictions of the Regional Directors of the Federal Labor Relations Authority are as follows:

State or other locality	Regional office
Alabama	Atlanta.
Alaska	San Francisco.
Arizona	Denver.
Arkansas	Atlanta.
California	San Francisco.
Colorado	Denver.
Connecticut	Boston.
Delaware	Boston.
District of Columbia	Washington, DC.
Florida	Atlanta.
Georgia	Atlanta.
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90 degrees East.	San Francisco.
Idaho	San Francisco.
Illinois	Chicago.
Indiana	Chicago.
Iowa	Chicago.
Kansas	Denver.
Kentucky	Chicago.
Louisiana	Atlanta.
Maine	Boston.
Maryland	Washington, DC.
Massachusetts	Boston.

State or other locality	Regional office
Michigan	Chicago.
Minnesota	Chicago.
Mississippi	Atlanta.
Missouri	Chicago.
Montana	Denver.
Nebraska	Denver.
Nevada	San Francisco.
New Hampshire	Boston.
New Jersey	Boston.
New Mexico	Denver.
New York	Boston.
North Carolina	Atlanta.
North Dakota	Chicago.
Ohio	Chicago.
Oklahoma	Denver.
Oregon	San Francisco.
Pennsylvania	Boston.
Puerto Rico and coastal islands	Boston.
Rhode Island	Boston.
South Carolina	Atlanta.
South Dakota	Chicago.
Tennessee	Chicago.
Texas	Denver.
Utah	Denver.
Vermont	Boston.
Virginia	Washington, DC.
Washington	San Francisco.
West Virginia	Washington, DC.
Wisconsin	Chicago.
Wyoming	Denver.
Virgin Islands	Atlanta.
Panama/limited FLRA jurisdiction	Atlanta.
All land and water areas east of the continents of North and South America to long. 90 degrees East, except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands.	Washington, DC.

Authority: 5 U.S.C. 7134.

Dated: September 10, 2018.

For the Federal Labor Relations Authority.

William Tosick,

Executive Director.

Note: The following appendix will not appear in the Code of Federal Regulations:

Appendix A—Opinions of the Authority's Majority and Dissent With Respect to the Closure of the Federal Labor Relations Authority's Boston and Dallas Regional Offices

I. Authority's Opinion

The Authority voted in January 2018 to close the Boston and Dallas Regional Offices. At that time, the Authority considered arguments echoing those of Member DuBester. We concluded, however, that consolidating the FLRA's Regional Office structure would husband the FLRA's budgetary and operational resources and best serve the labor-management relations community.

In the end, Member DuBester raises nothing new. We have reprinted Chairman Kiko's March 26, 2018 letter to the Senate Subcommittee on Financial Services and General Government, Committee on Appropriations (attachments omitted), explaining why we undertook this Regional Office consolidation. We have also included Chairman Kiko's May 21, 2018 response to the letter from a group of Senators that Member DuBester references, which reiterates the rationale for the consolidation and offers Chairman Kiko's additional personal reflections on the need for reform. In our opinion, these two letters thoroughly refute Member DuBester's dissent.

Colleen Duffy Kiko,

Chairman.

James T. Abbott,

Member.

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UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON, D.C. 20424
(202) 218-7900
www.FLRA.gov

OFFICE OF THE CHAIRMAN

March 26, 2018

The Honorable Shelley Moore Capito
Chairman
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate
SD-133 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chris Coons
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate
SH-125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Capito and Ranking Member Coons:

In accordance with Division E, Title VI, Section 608 of the Consolidated Appropriations Act, 2018, H.R. 1625, 115th Cong. (2018) (enacted), I respectfully advise you that the Federal Labor Relations Authority (FLRA) proposes to reorganize by consolidating the regional-office structure of its Office of the General Counsel (OGC) component.

Consistent with Executive Order 13781, *Comprehensive Plan for Reorganizing the Executive Branch* (March 13, 2017), and Office of Management and Budget (OMB) Memorandum M-17-22, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce* (April 12, 2017), the FLRA assembled a cross-component working group on March 27, 2017, to develop agency reform proposals and a long-term workforce plan focused on improving the agency's efficiency, effectiveness, and accountability. This provided the agency with a real opportunity to take a close look at its structure and operations, and to develop and implement solutions for streamlining and reducing costs across the FLRA – while continuing to carry out the agency's important mission. The agency sought internal and external stakeholder feedback for improving the efficiency and effectiveness of the FLRA in May 2017. Among the internal suggestions were recommendations to increase the use of electronic case files, reduce the agency's physical footprint, utilize hoteling, and reduce the regional-office structure from the current seven to only three or four regional offices.

As outlined in the FLRA's FY 2019 Congressional Budget Justification, the FLRA has already implemented a number of cost-saving measures, including reducing its travel and training budgets and increasing its use of technology (e.g., videoconferencing and electronic-case-file developments). But, like most small agencies, only a small portion of the FLRA's budget is discretionary – with approximately 80% devoted to

employee compensation and benefits, and another approximately 10% committed to rent costs. Consistent with Government-wide mandates and the agency's own ongoing efforts to reduce or eliminate rental costs since 2010, the agency's physical footprint and its regional-office structure were logical places to look for additional cost savings.

As noted in the President's budget, "[a]ll work throughout the agency is undertaken to support a single program" – to promote stable, constructive labor-management relations through the resolution and prevention of labor disputes in a manner that determines the respective rights of employees, agencies, and labor organizations in their relations with one another. The regional offices, on behalf of the FLRA General Counsel, investigate and resolve unfair-labor-practice (ULP) charges, prosecute ULP complaints, investigate and resolve representation cases, and conduct secret-ballot elections. There are currently seven regional offices in: Atlanta, Georgia; Boston, Massachusetts; Chicago, Illinois; Dallas, Texas; Denver, Colorado; San Francisco, California; and Washington, D.C. (co-located with FLRA headquarters).

It has been over twenty years since the FLRA has reorganized its regional-office structure. After reviewing potential costs and efficiencies, the FLRA reorganized its regional-office structure in the 1990s – consolidating 9 regional offices into 7 – by closing regional offices in New York, New York and Los Angeles, California. The current proposal is to consolidate from 7 regional offices into 5, resulting in the closure of the FLRA's Boston and Dallas regional offices. This would directly affect 16 employees – 9 in Boston and 7 in Dallas. *All* affected employees will be offered reassignment within the agency to positions in another regional office or headquarters.

As an initial matter, it is important to note that technology has changed significantly since the agency opened its doors in 1979, providing the ability to easily transact business virtually through electronic means. As such, it is no longer as crucial or cost-effective as it was in 1979 for the FLRA to have regional offices and employees in as many geographic locations. In addition, consolidating the regional-office structure will not result in substantial increases in travel costs for the FLRA or its customers. Generally, the only time that a customer may be required to travel is to participate in a ULP hearing before an FLRA Administrative Law Judge (ALJ) or a representation hearing before an FLRA hearing officer. But the ALJ typically travels (at FLRA expense) from Washington, D.C. to where the parties and witnesses are located, and the FLRA pays the travel expenses for FLRA counsel and all FLRA witnesses, the majority of whom are union representatives. Moreover, the number of ULP hearings is quite small – for example, there were only 14 hearings in FY 2017, and an average of only 16 hearings per year for the last four years. As to representation cases, the OGC relies heavily on telephonic meetings. These can take place before a petition is filed to educate party representatives, or after a petition is filed to investigate, narrow, and resolve issues. To the extent that the parties have to participate in representation hearings, the FLRA hearing officers generally travel, at FLRA expense, to the parties' or witnesses' location. Moreover, the number of representation hearings is small – the OGC conducted only 10 representation hearings in FY 2017. And the OGC is increasingly using videoconferencing to conduct all or parts of those hearings. Finally, the OGC

increasingly uses electronic voting and mail-ballot elections to conduct secret-ballot elections, minimizing the need for FLRA staff to utilize paid travel.

Against this backdrop, factors considered by agency leadership in making the current consolidation recommendation include: (1) five-year average case intake for each regional office; (2) annual rent costs for each regional office outside of D.C.; (3) the number of employees in each region; and (4) proximity to another regional office.

Based on 5-year case-intake averages (from FY 2012 – FY 2016), Boston and Dallas have the lowest overall average case intake. As to ULP cases, Boston and Dallas have average annual intake of 532 and 507 cases, respectively, or a total of 1,039 cases. By comparison, the remaining five regional offices have averages of 771 (Atlanta), 676 (Chicago), 564 (Denver), 750 (San Francisco), and 696 (Washington, D.C.). Turning to representation cases, Boston and Dallas have five-year average annual intake of 25 and 22 cases, respectively, or a total of 47 cases. By comparison, the remaining five regional offices have averages of 37 (Atlanta), 29 (Chicago), 24 (Denver), 45 (San Francisco), and 67 (Washington, D.C.). It is important to note that the agency specifically used a five-year average of case-intake data to avoid penalizing a regional office that had had "an off year," as case intake can fluctuate from year to year. However, if we were to include FY 2017 data in the averages, the disparity between the Boston and Dallas regional offices' intake compared to the other regional offices is even more significant.

In addition to case intake, other considerations included rent costs, the number of affected employees, and proximity to other regional offices. As to rent, at $48 per square foot in 2017 and $45 per square foot in 2018, rent for the Boston regional office is significantly greater per square foot than all of the FLRA's other regional offices outside of Washington, D.C. By comparison, the average rent per square foot for those offices is $25.87 per square foot. Closing the Boston and Dallas regional offices will save the agency in future fiscal years approximately $300,000 annually in lease payments, $1,500,000 over five years, and $3,000,000 over ten years. With respect to the impact on FLRA employees, the Dallas regional office has the fewest number of employees (7 employees), so closure of that office will result in disruption to, and relocation payments for, the fewest employees. Moreover, the Boston and Dallas regional offices are in close proximity to other regional offices, and the agency will continue to have a regional presence both on the East Coast and in the South/Southwest.

In accordance with M-17-22, the agency submitted all of its reform proposals, including the recommendation to consolidate the regional-office structure and close the Boston and Dallas regional offices, to OMB on September 11, 2017. OMB approved the consolidation as part of the annual development of the FY 2019 President's Budget, contingent on a vote of the Authority Members – the FLRA's three-Member decisional body, which includes the FLRA Chairman, who is the agency's chief executive and administrative officer.[1] On December 11, 2017, the FLRA experienced a transition in its leadership. I was sworn in as an FLRA Member and designated by the President to serve

[1] Under 5 U.S.C. §7104(b), "The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority."

as Chairman; Member Ernest DuBester was sworn in for his third term as an Authority Member; and Member James T. Abbott was sworn in for his first term as an Authority Member. Consistent with FLRA regulations,[2] a majority of the Authority voted on January 11, 2018, to reduce its physical footprint and to consolidate its existing seven regional offices to five regional offices located in: Atlanta, Georgia; Chicago, Illinois; Denver, Colorado; San Francisco, California; and Washington, D.C. (co-located at FLRA headquarters).

Based on comprehensive analysis and planning, the FLRA has taken or will take the following implementation actions to consolidate the regional-office structure and realign the casework and the workforce of its regional offices. These include:

- On February 12, 2018, I personally shared the details of the consolidation with employees in a series of three meetings: (1) a meeting with the Regional Directors of all seven regional offices; (2) a meeting of all employees in the Boston and Dallas regional offices, including the employees' representative; and (3) an all-employee meeting. Following the all-employee meeting, a handout was distributed to all employees, which is enclosed here as Attachment 1.

- The agency will close its Boston, Massachusetts and Dallas, Texas regional offices no later than September 30, 2018, by providing no less than the required 4 months' notice to the General Services Administration that it intends to terminate the leases and vacate the offices scheduled for closure.

- The agency will adjust the geographic jurisdiction and caseloads for each of the remaining regional offices. Specifically, the workload of the Boston and Dallas regional offices – an average of 1,039 ULP cases annually (or 23% of the total OGC average annual intake of 4,496 ULP cases) and 47 representation cases annually (or 19% of the total OGC average annual intake of 249 representation cases) – will be redistributed to the other regional offices through a published regulatory change[3] to the geographic jurisdiction of each regional office. The regulatory change will be published no later than July 30, 2018, and the specific changes regarding the geographic areas covered by each regional office before and after the consolidation are outlined in detail in Attachments 2 and 3. OGC management will meet to determine the best way to accomplish the caseload transition, which will dictate how soon the regulation will be published and how soon the Boston and Dallas regional offices will cease to accept new cases. OGC management will also develop a detailed plan for transferring cases that are already pending in the Boston and Dallas regional offices at the time of the regulatory change.

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[2] Appendix B to 5 C.F.R. Chapter XIV provides that "the establishment, transfer, or elimination of any Regional Office or non-Regional Office duty location may be accomplished only with the approval of the Authority."

[3] As with the most recent realignment of the OGC's geographic jurisdiction in 2014, the Agency will issue the change as a final rule, without notice and comment. *See* 79 Fed. Reg. 33,849, 33,850 (June 13, 2014).

- The 16 employees currently working in the Boston and Dallas regional offices – 2 Senior Executive Service (SES) regional directors; 2 GS-15 supervisory attorneys; 10 GS-12 to GS-14 attorneys/agents; 1 GS-11 administrative officer; and 1 GS-8 legal assistant – will be reassigned and relocated, at agency expense, to existing regional office or headquarters offices, without the agency leasing any additional space. No reduction-in-force actions will be initiated because there are adequate positions to retain all of the directly affected employees, without a loss to their SES status or grade level.

- The agency has already requested and received Voluntary Early Retirement Authority (VERA) from the Office of Personnel Management (OPM), and it offered VERA to all employees agency-wide on February 12, 2018, to maximize relocation opportunities for the directly affected employees. That is, potential vacancies in other locations may provide additional relocation options for the Boston and Dallas employees. The agency has already provided retirement estimates to all seven VERA-eligible or optional-retirement-eligible employees in Boston and Dallas, as well as individual retirement counseling sessions to them upon request. Anyone who accepts VERA will be expected to retire by September 30, 2018.

- The agency has notified employees that it will not request Voluntary Separation Incentive Payment (VSIP) authority from OMB and OPM, because it is not attempting to reduce its workforce through this reorganization.

- I have established a dedicated email address for employees to submit questions about the consolidation, and I am personally committed to ensuring that every question is answered – either by direct reply or in a list of questions and answers that are regularly updated and posted on the agency's intranet site.

- Meetings are currently underway with the employees' representative organization to discuss the consolidation. It is anticipated that all directed reassignment letters will issue no later than May 1, 2018. But some employee relocations will likely spill over into FY 2019 depending on funding.

- Internal work groups, led by the agency's Executive Director, have been assembled to develop and coordinate the logistics of the consolidation.

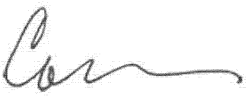
Due to the already deep cost-cutting measures taken through the Agency Reform Plan, the agency will fund as many of the employee relocations resulting from the consolidation as possible from its baseline FY 2018 budget, with no loss of service to the agency's mission.[4]

[4] Relocation costs not covered by the agency's baseline FY 2018 budget (up to approximately $900,000) will be absorbed from the FY 2019 budget, again with no loss of mission service. The first realization of cost savings will not occur until FY 2020.

If you or your staff need additional information or have any questions, please contact me or Gina Grippando, Counsel for Regulatory and Public Affairs (at 202-218-7776 or ggripp@flra.gov).

An identical letter is being sent to Chairman Tom Graves and Ranking Member Mike Quigley, House Subcommittee on Financial Services and General Government, Committee on Appropriations.

Sincerely,



Colleen Duffy Kiko
Chairman

Cc (with enclosures):

The Honorable Thad Cochran, Chairman
Committee on Appropriations
United States Senate

The Honorable Patrick J. Leahy, Vice Chairman
Committee on Appropriations
United States Senate

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
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May 21, 2018

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United States Senator
127A Russell Senate Office Building
Washington, D.C. 20510

The Honorable Christopher S. Murphy
United States Senator
136 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jack Reed
United States Senator
728 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators:

Thank you for your letter of May 1, 2018, expressing concern for federal employees currently served by the Boston Regional Office of the Federal Labor Relations Authority (FLRA). I am

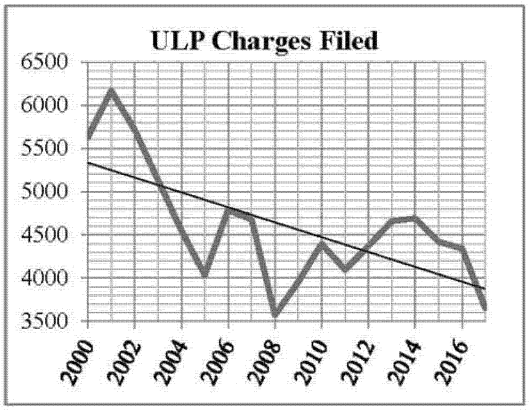
encouraged by your support for our mission and our shared belief that the Civil Service Reform Act is vital for safeguarding the rights of federal employees, federal agencies, and federal employees' unions.

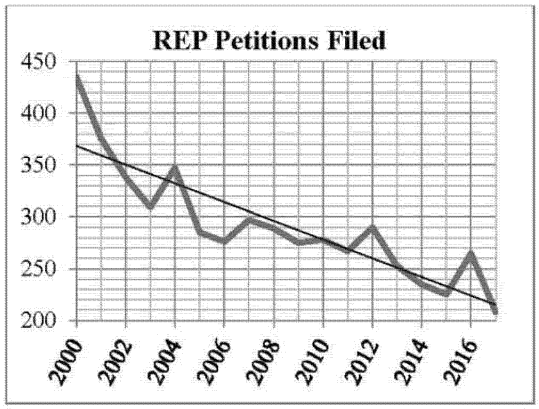
When the FLRA first opened its doors in 1979, I worked as a career employee in its Washington, D.C. regional office, and later in the Authority headquarters, until 1982 when I left to attend law school. I eventually returned to the agency to serve as its General Counsel from 2005 to 2008, overseeing all seven of the current regional offices. I know first-hand what the work of the FLRA's regional offices entails – at all levels – as well as how the work has changed dramatically over the past four decades.

In 1979, there were nine FLRA regional offices. In the 1990s, the FLRA consolidated those nine regional offices into seven. Recently, as required by our internal regulations, the Authority voted to approve a plan that will consolidate those seven regional offices into five. While the plan physically closes the Boston and Dallas offices, it does so without any job losses to current FLRA employees and without any reduction to the high-quality services that the FLRA provides to our stakeholders.

Although the consolidation plan was developed before I became the FLRA's Chairman, I wholly endorse it because the analysis underlying it was thorough, data-driven, and fully consistent with recent presidential and Office of Management and Budget (OMB) mandates – Executive Order 13781, *Comprehensive Plan for Reorganizing the Executive Branch* (March 13, 2017), and OMB Memorandum M-17-22, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce* (April 12, 2017). In other words, I am convinced that this plan will enhance and improve the FLRA's ability to carry out its mission and to do so in a more efficient manner. It also is consistent with the following three realities.

First, there is the reality of declining caseloads. Since 2000, according to FLRA Congressional Budget Justification submissions, our highest total annual intake of unfair labor practice (ULP) charges – across all seven regions – was 6,167 in 2001. In 2017, our annual intake of ULP charges was 3,655. Our highest total annual intake of representation (REP) petitions was 435 in 2000. In 2017, our annual intake of REP petitions was 208.





In the face of this indisputable data, it is hard to justify maintaining regional offices in seven cities when, as I explain below with regard to technology, the FLRA's work can be carried out just as efficiently in fewer locations. In fact, to address declining caseloads in particular regions, the Office of the General Counsel has been routinely transferring cases among the seven regions for at least a decade to ensure parity in caseloads. In light of that fact, there is not – and there has not been for many years – a guarantee that a case filed in Boston would be investigated by a Boston agent.

Just as Congress said that the law we administer must be interpreted in a manner consistent with the requirement of an effective and efficient Government, 5 U.S.C. § 7101(b), the FLRA, too, must ensure that it is managing its operations in a way that is most effective and efficient for the American taxpayer. I am convinced that this plan enhances our ability to carry out our mission even more effectively.

Second, we and the federal labor-management-relations community are beneficiaries of technological advancements that enable us to perform our mission much differently than in the past. With the introduction of technological modernization, the majority of the FLRA's customers – and all of the FLRA's staff – enjoy constant access to internet, email, cell phones, and even video teleconferencing. As such, there is much less of a need for FLRA agents to conduct on-site investigations. These technological advancements facilitate communication and allow agents to build trust with our parties in ways that were impossible 40 – or even 20 – years ago. They also facilitate the investigation of cases that are routinely transferred among the seven regions as described above. Moreover, for more than a decade, the FLRA has also used technology to provide to our customers training materials that are current and easily accessible on the FLRA's website. Our staff has therefore demonstrated that geographic distance does not hinder their ability to provide top-notch customer service to your constituents. These technological initiatives are in keeping with Congress' and the past several Administrations' intent to leverage technology to the maximum extent feasible.

Third, there is a fiscal reality. When 80 percent of the FLRA budget is personnel costs, and 10 percent is rent, there is little room for cost-cutting without looking at the staff reductions that we would like to avoid. By planning ahead and reducing rental costs now without a reduction-in-force, we are proactively managing resources *and* preserving our experienced staff. Our employees are our greatest resource.

It seems that some confusing and inaccurate information has been conveyed about what our plan does and does not do. I would like to set the record straight on a few key points and facts. Our plan will result in a net reduction of only two Office of the General Counsel positions (from 62 to 60) – both of which are managerial, Senior Executive Service (SES) positions. These two SES employees are being reassigned to two vacant SES positions in the Office of the General Counsel and Authority headquarters. The number of agents available to perform investigative work will actually increase, as one current GS-15 manager will begin performing investigative work full-time, thereby enhancing our ability to address workplace unfair labor practices. Through this process, we will have reduced our manager-to-employee ratio.

Moreover, while it closes two physical offices, the plan directly reassigns *every employee* – a total of 16 (4 managers, 10 attorneys, 1 administrative officer, and 1 legal assistant) – to positions in the other five regions or at headquarters. No one loses their job. No one loses their grade or step. And, through an agreement negotiated with our employee representative organization on the impact and implementation of this move, we have ensured that employees were given their preference of reassignment locations.

Thus, all 16 employees – attorneys, administrative staff, and managers – who currently work in the Boston and Dallas offices have been offered their preferred positions in one of the other regions or headquarters with paid relocation. Continuity on specific cases in Boston and Dallas will not be lost. Further, by working hard to retain our current employees and by continuing to have them provide training to the same customers, relationships with parties that have been developed over the years in those regions will remain intact.

In the end, these changes will enable us to continue to effectively serve our customers, but to do so more efficiently and without a reduction in service.
With regard to your citation to Division E, Title VI, Section 740 of Public Law 115-141, the Consolidated Appropriations Act, 2018, we respectfully disagree that this section applies to our consolidation. Section 740 concerns attempts to use funds to "increase, eliminate, or reduce funding for a program, project, or activity." However, the consolidation plan does not increase, eliminate, or reduce funding for any program, project, or activity because the Boston Regional Office is not a program, project, or activity of the FLRA. Consistent with the Government Accountability Office's definition of "program, project, or activity," the FLRA's three activities are the Authority, the Office of the General Counsel, and the Federal Service Impasses Panel. *See* A Glossary of Terms Used in the Federal Budget Process, https://www.gao.gov/new.items/d05734sp.pdf and the FLRA's FY 2019 Congressional Budget Justification, https://www.flra.gov/about/public-affairs. The Boston Regional Office is a location where those activities are conducted. The amount that the FLRA is using for these activities remains the same as what we explained in our FY 2019 Congressional Budget Justification; all that has changed is the location of those activities. Therefore, Section 740 does not apply.

Just as importantly, the reorganization is not cutting any staff or reducing mission-related funding in any way. The same people will be doing the same work in different locations. Thus, the FLRA will be equally well positioned after the reorganization – with substantial annual cost savings on rent and two SES salaries – to promote stable, constructive labor-management relations through the resolution and prevention of labor disputes in a manner that determines the respective rights of employees, agencies, and labor organizations in their relations with one another.

As for working with our Appropriations Committees, I have personally briefed the Majority and Minority Appropriations staff in both the Senate and the House on this plan. We also provided formal notification of the plan to the leadership of those committees, consistent with P.L. 115-141, Division E, Title VI, Section 608 guidelines, by letter dated March 26, 2018.

Again, I appreciate your concerns and trust that I have addressed them. At the end of the day, this regional-office consolidation is good government, and I welcome your support.

If you have any questions or require additional assistance, please do not hesitate to contact me or Gina K. Grippando, Counsel for Regulatory and Public Affairs, at (202) 218-7776 or ggripp@flra.gov.

Sincerely,

Colleen Duffy Kiko
Chairman

cc: The Honorable Ernest DuBester, Member
The Honorable James T. Abbott, Member

BILLING CODE 6727–01–C

II. Dissenting View of Member Ernie DuBester

I strongly disagree with the decision to close the FLRA's Dallas Regional Office at the end of this fiscal year and the Boston Regional Office in November 2018. My opposition to these regional office closures is based in significant part on the perspective gained during my extensive experience in government.

In that respect, I have served over nine years as a Member of the FLRA. For most of 2013, the first year of sequestration, I served as the FLRA's Chairman. I also had the privilege of serving for eight years as the Chairman (and Member) of another federal labor-management relations agency—the National Mediation Board. In these 17 years of service, I have always been mindful of the need for efficiencies that could improve government performance. Similarly, I have always tried to exercise leadership in a fiscally responsible manner.

With those thoughts in mind, the decision to close the Dallas and Boston Offices is unjustified, unwarranted, and will undermine the FLRA's ability to perform its mission. Beyond my grave concerns about this decision's substantive impact, I also take serious issue with the circumstances surrounding the process by which this decision was made and implemented.

The FLRA administers the labor-management relations program for over two million non-Postal, federal employees worldwide, including civilians in the Armed Forces. Until this decision, within its Office of the General Counsel (OGC), the FLRA had seven Regional Offices around the country, including one at its Washington, DC headquarters. These seven offices served the entire country, and overseas locations where federal employees work.

Ostensibly, the decision to close the Dallas and Boston Offices is responsive to Executive Order No. 13781, *Comprehensive Plan for Reorganizing the Executive Branch* (March 13, 2017), and the Office of Management and Budget (OMB) Memorandum M–17–22 (April 12, 2017). These directives ask federal agencies to consider organizational changes that could be made to effect operational savings. But it is evident that the purpose is not simply to show a cost savings without regard to an agency's mission and its delivery of services to stakeholders. To the contrary, agencies are to implement changes that will ''dramatically improve effectiveness and efficiency of government.''

The decision to close the Dallas and Boston Offices fails this test. It was made without thoughtful consideration of the FLRA's mission or the nature of its work to perform that mission. And significantly, it ignores the considerable sacrifices made by the FLRA and its employees in recent years which have already saved the government tens of millions of dollars.

Concerning mission effectiveness, as the attached letter to FLRA Chairman Kiko (May 1, 2018) from 13 U.S. Senators representing a quarter of a million federal employees currently served by the Boston Office indicates, its closure will ''place FLRA Staff farther away from those who rely on their services.'' Indeed, federal agencies and federal employees in the Northeast, all the way to the tip of Maine, will have to come to Washington, DC to address their rights and responsibilities. And, as the Senators' letter indicates, the decision is being made without Congressional oversight. Is this really the direction that we want to go?

Analogous concerns apply to the Dallas Office closure. With that closure, the FLRA is closing the Regional Office located in the state which has the second largest number of federal employees outside of the Washington, DC Metropolitan area. Considered in this context alone, the decision defies logic.

This is especially true given that the decision was made without any apparent outreach to stakeholders. Any serious consideration of the FLRA's mission and its delivery of services to the parties demands that there be some kind of outreach *BEFORE* such a decision was made.

Also ignored, as indicated, is that, for the last 20 years, the FLRA has practiced fiscal responsibility, saving the government tens of millions of dollars. As the attached letter from eight retired FLRA Regional Directors (RDs) to the Chairman and Ranking Member of the Senate Committee on Homeland Security and Governmental Affairs states (March 9, 2018), the FLRA has gone ''far beyond most agencies in reducing operational costs and expenses.'' [A comparable letter was sent to the Chairman and Ranking Member of the House Oversight Committee].

There are many illustrations. For example, from a recent high of 215 employees (FTEs) in fiscal year (FY) 2000, the FLRA reduced its workforce by over 45%, to 114 FTEs, by FY 2009.

Since that time, the FLRA has implemented many additional cost-saving measures and efficiencies. This includes reducing the size of its headquarters by about 12,000 square feet in FY 2014, eliminating an entire floor. And, the FLRA similarly reduced its space in five Regional Offices (Chicago, Denver, San Francisco, as well as Dallas and Boston).

In the last year, moreover, the FLRA has eliminated at least 12 more FTEs, about 10% of its already small workforce. Elimination of the Dallas and Boston Offices will result in a further reduction of FTEs. This means that, since FY 2000, the FLRA will have eliminated over 55% of its employees.

As the attached retired-RDs letter suggests, after these repeated sacrifices, the severity of this additional action to close Dallas and Boston, without good reason, is demoralizing and impairs the FLRA's ability to perform its mission. It should be remembered that, in FY 2009, after the 45% reduction in employees, the FLRA was ranked dead last (32nd of 32 similarly-sized agencies) in the Partnership for Public Services ''Best Places to Work'' rankings. But in recent years, at least until last year, though implementing many cost-

saving measures and innovative practices to promote efficiencies, the FLRA has climbed to a #1 ranking in most categories of the Best Places to Work Rankings, and has ranked in the top five overall for several years. With elimination of the Dallas and Boston Offices, it is questionable whether this will continue.

What a shame. Nobody knows better than OMB (and Congress) the recent record of the FLRA in saving the government significant dollars. Sometimes, after such repeated sacrifices, a small agency like the FLRA, with a relatively modest budget, has become ''right-sized.'' Before elimination of the Dallas and Boston Offices, the FLRA was already the optimal size to perform its mission effectively and efficiently.

In addition to disregarding the FLRA's repeated fiscal sacrifices, the decision to close Dallas and Boston fails to consider thoughtfully the substantial mission-related value of Regional Offices being located where FLRA staff is more readily accessible to the parties. Again, as the retired-RDs letter suggests, this value has been ''demonstrated again and again over the years.''

Certainly, a value is provided through ''[r]egularly scheduled regional training presentations'' which have become ''an established resource to both labor and management representatives, many of whom could not travel to Washington DC or other distant cities.'' In the last 10 years, the FLRA has provided training to thousands of FLRA stakeholders at Regional Office sites. And, by facilitating opportunities for the parties to meet and interact with Regional Office Staff, the FLRA's credibility and effectiveness is enhanced.

This is particularly true, and important, regarding access to our RDs, who are FLRA decision-makers. Access to, and interaction with, RDs by the federal sector labor-management community, not only builds trust in the FLRA's operations, but also promotes early settlements which produce real cost savings.

Apparently, the FLRA Members supporting the closures do not believe that this value still exists. Rather, it is suggested that technology has changed the nature of Regional Office work. In other words, it does not matter where you are. As long as you have a computer, a fax, and a telephone, you can be on top of a mountain anywhere in the U.S.A.

This suggestion is little more than a fabrication. The FLRA is in the business of labor-management relations. As is often said, the often overlooked word in that phrase is ''relations.'' Constructive relationships require direct human interaction. And, notwithstanding rapid advances in technology, direct human interaction will continue to be a vital element in building constructive labor-management relationships for the foreseeable future.

And, finally, in a related sense, now is the worst time to downsize further a dispute-resolution agency like the FLRA. While the FLRA is a small agency, accomplishing its mission, including timely, quality, and impartial resolution of labor-management disputes, is critical to promoting effective and efficient performance at *EVERY* federal agency under its jurisdiction. In other words, the FLRA's successful mission performance has a positive rippling effect government-wide.

Given the current effort to streamline federal government agencies, there is very likely to be an increase in the number of grievances and labor-management disputes. Viewed against this background, it is the wrong time to cut further the size and resources of a small dispute-resolution agency like the FLRA—particularly given its many sacrifices and practice of fiscal responsibility in recent years.

Indeed, considering the adverse impact on the FLRA's ability to perform its mission, the significant loss of quality employees, and the number of silent people who know better, the decision to close the Dallas and Boston Regional Offices is not just a shame—it is a crying shame.

The Mind reels.

Ernie DuBester,

Member.

BILLING CODE 6727–01–P

United States Senate
WASHINGTON, DC 20510

May 1, 2018

Chairman Colleen Duffy Kiko
Federal Labor Relations Authority
1400 K Street, NW
Washington, DC 20424

Dear Chairman Kiko:

As Senators representing the roughly 250,000 federal employees served by the Boston Regional Office of the Federal Labor Relations Authority (FLRA), we are writing to express our concern over the announcement that the FLRA intends to close its regional offices in Dallas and Boston.

The FLRA is critical to safeguarding the rights of federal employees and ensures that they receive due process under the Civil Service Reform Act. Through its adjudicatory and prosecutorial roles, the FLRA resolves disputes over bargaining units, unfair labor practices, and other matters important to federal employees. The Authority also trains union officers and agency officials to ensure that they know their rights and responsibilities under the law. Critical to this mission is the regional office structure of the FLRA, so that agency staff can build relationships with parties across the country to fulfil the agency's core mission.

Closing regional offices would place FLRA staff farther away from those who rely on their services. Additional harm to the rights of federal employees would likely be compounded by agency efforts to reduce funding for staff travel in order to conduct elections, representational hearings, onsite Unfair Labor Practice (ULP) investigations, and other essential work.

In the FLRA's Congressional Budget Justification for the President's budget request for Fiscal Year 2019, the FLRA proposed closing the Boston Regional Office. However, under the 2018 Consolidated Appropriations Act (the "Omnibus"), that action is prohibited unless approved by Congress following detailed reprogramming reporting by the agency. Specifically, we call your attention to Section 740 of Public Law 115-141, which states:

> None of the funds made available in this or any other appropriations Act may be used to increase, eliminate, or reduce funding for a program, project, or activity as proposed in the President's budget request for a fiscal year until such proposed change is subsequently enacted in an appropriation Act, or unless such change is made pursuant to the reprogramming or transfer provisions of this or any other appropriations Act.

Congress demonstrated support for the current FLRA structure by appropriating level funding to the agency for Fiscal Year 2018. With a two-year budget agreement now in place, federal agencies should focus on delivering the most effective services for their constituencies rather than harmful cuts that will reduce responsiveness.

Therefore, we urge you to immediately cease all planning and execution of the announced office closures and instead allow the Appropriations Committees to review and approve any plans for reorganization, ensuring that such actions are the best use of taxpayer funds.

We ask that you immediately inform us of any decision to submit a reprogramming request pursuant to Public Law 115-141.

Thank you for your attention to this matter. We look forward to working with you to protect to the rights of federal employees in our states and across the country.

Sincerely,

Edward J. Markey
United States Senator

Susan M. Collins
United States Senator

Sheldon Whitehouse
United States Senator

Jeanne Shaheen
United States Senator

Bernard Sanders
United States Senator

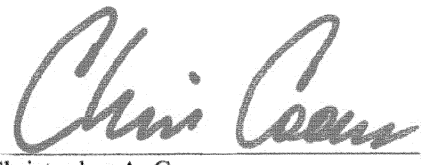
Richard Blumenthal
United States Senator

Elizabeth Warren
United States Senator

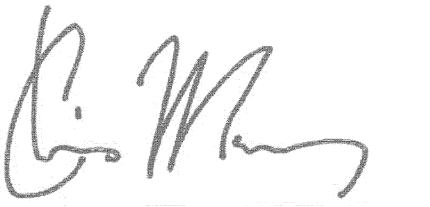
Robert P. Casey, Jr.
United States Senator

Angus S. King, Jr.
United States Senator

Thomas R. Carper
United States Senator



Christopher A. Coons
United States Senator



Christopher S. Murphy
United States Senator

Jack Reed
United States Senator

cc:
Member James T. Abbott
Member Ernest DuBester

March 9, 2018

The Honorable Ronald H. Johnson
Chairman, Senate Committee on
Homeland Security and Governmental
Affairs
SD-340, Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Claire C. McCaskill
Ranking Member, Senate Committee on
Homeland Security and Governmental
Affairs
SH-503, Hart Senate Office Building
Washington, DC 20510

Dear Chairman Johnson and Ranking Member McCaskill:

By way of introduction, all of the individuals named below are former career members of the United States Senior Executive Service, who retired after more than 200 combined years of civilian service with the Federal Government. We each have served for extended periods as Regional Directors of the Federal Labor Relations Authority (FLRA), under both Democratic and Republican administrations, and now join together to bring to your attention what we deem to be a matter of the greatest importance to the federal sector labor-management relations community.

It has come to our attention that the FLRA senior management has recommended the closure of two (2) of its Regional Offices (Boston and Dallas) in its recent FY 2019 budget submission to the Office of Management and Budget (OMB). For the reasons set forth below, we believe this decision, if accepted, will adversely affect not only the efficient performance of that agency's mission, but will also negatively impact the very significant progress which has been made in recent years to reduce reliance on confrontational labor relations in the federal sector, while also encouraging alternative methods of dispute resolution.

The FLRA was created by act of Congress in 1978 and charged with the enforcement of the Federal Service Labor-Management Relations Statute (Statute) as applied to Federal Government Agencies and more than two million civilian federal employees, with specified statutory exemptions. This represented the first statutory recognition of collective bargaining in the federal sector, which had formerly been governed by Executive Orders beginning with President John F. Kennedy. Disputes arising under the Executive Orders had been investigated and processed by the Department of Labor (DOL), Labor-Management Services Administration.

At the outset, the FLRA regional structure was streamlined from that of its DOL predecessor, by not absorbing or quickly closing regional locations in Buffalo, Newark and Seattle. This left a new field structure consisting of nine (9) Regional Offices in Boston, New York, Washington D.C., Atlanta, Kansas City (later moved to Denver), Chicago, Dallas, Los Angeles and San Francisco (and two (2) sub-offices in Cleveland and Philadelphia) charged with investigating several thousand pending cases transferred from DOL to FLRA at the transition, as well as all new cases being filed under the Statute. In 1981, FLRA, along with other Federal Agencies, experienced a mandated Reduction in Force, which while reducing

staff, left the regional office structure unchanged. However, in 1990, the number of Regional Offices was reduced from nine (9) to seven (7), initially reducing both the Los Angeles and New York Regions to sub-office status, and, in later years, eliminating both of those offices in addition to the Cleveland and Philadelphia sub-offices. All of the noted staff and organizational reductions were carried out in furtherance of various budgetary and fiscal cutbacks.

The value of Regional Offices in locations where FLRA staff was accessible to the parties was demonstrated again and again over the years. Regularly scheduled regional training presentations became an established resource to both labor and management representatives, many of whom could not travel to Washington or other distant sites. Feedback surveys prepared by attendees immediately after each regional training program clearly demonstrated that the parties valued these opportunities to meet and interact with regional staff and gain a clearer understanding of the investigative process. Moreover, having regional offices located closer to the actual work sites allowed FLRA agents to develop working relationships with the labor and management community, facilitating communication and trust during the investigative process. Despite having to limit field travel at various times due to repeated travel budget constraints, there is no doubt that regular, onsite investigations had been the norm and was viewed as the best practice for achieving more accurate and complete results. This is especially true for rank and file employees, with very limited knowledge of the Statute and legal process, who would be understandably reluctant to speak openly with FLRA personnel who were simply an unseen voice on the telephone. When used, this alternate process was not in furtherance of efficient and effective government, but was strictly a consequence of resource limitations. To eliminate two of the Regional Offices as now proposed, would further reduce the credibility and effectiveness of the FLRA.

Essentially, FLRA went far beyond most agencies in reducing operational costs and expenses. In FY 2000, FLRA had 215 FTE's; by FY 2009, the number of FTE's was 114, a 45% reduction. In FY 2017, FLRA reduced staffing by another 12 positions, 10% of its staffing level at that time. Further, in FY 2014, FLRA reduced space in several regional offices and surrendered 12,000 square feet (1 entire floor) in its headquarters office.

Despite these repeated sacrifices, the staff of the FLRA continued its total commitment to carrying out the agency's mission. Employee feedback made clear that they believed strongly in their work to improve the collective bargaining climate in federal sector. But there were impacts. In the FY 2009, Partnership For Public Service "Best Places to Work" survey, FLRA ranked last (32 of 32) among similar-sized agencies. In no small part due to genuine internal policy shifts and pro-active outreach to both labor and management, the survey results for the past three (3) fiscal years now showed FLRA ranking first in many categories and in the top five of similar-sized agencies.

There has been no FLRA General Counsel since January of 2017. While the Deputy General Counsel was initially able to carry on some functions in an acting capacity, even that ended in November of 2017 pursuant to requirements of the Vacancies Act. In the absence of a General Counsel, no Complaints may issue despite administrative determinations by Regional Directors that violations are present. Parties are well aware of this inability, now entering its

fifth month, and case filings have significantly declined throughout the country accordingly. It is in this environment that the current FLRA leadership has recommended the closure of two (2) of its seven (7) Regional Offices.

In July 2017, OMB issued guidance to federal agencies on the preparation of their FY 2019 budget requests, to include areas where organizational changes could be made to effect operational savings. It is clear however, that this guidance was not to simply show a savings in dollars without regard to the mission of each agency and delivery of services to its stakeholders. Rather, the instruction was to implement change that has the potential to "dramatically improve effectiveness and efficiency of government." The closing of the Dallas and Boston Regional Offices will reduce the number of Regional Offices by 29% and adversely affect 17 persons working in those offices. Moreover, this is being done in the absence of a General Counsel whose role it is to oversee regional operations. This will have a predictable negative impact on national staff morale (after working so hard to rise from its dismal standing in FY 2009). The closures would further limit face-to-face communication with parties and further move toward an undesirable teleservice center approach to collective bargaining in the federal sector. It is noted in this regard that more than 445,000 members of the Federal civilian workforce now reside in the geographic jurisdictions of the Dallas and Boston Regions.

In our view, this is serious error and should not be approved.

Sincerely,

Gerald Cole (San Francisco)

Edward Davidson (Boston)

Matthew Jarvinen (Denver)

Jean Perata (San Francisco)

James Petrucci (Dallas/New York)

Marjorie Thompson (Denver)

Richard Zaiger (Boston)

Barbara Kraft (Washington, DC)

[FR Doc. 2018–19929 Filed 9–12–18; 8:45 am]
BILLING CODE 6727–01–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0493; Product Identifier 2017–NM–141–AD; Amendment 39–19389; AD 2018–18–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes. This AD was prompted by reports that cracks were found on the door mechanism actuator shaft assemblies of the nose landing gear (NLG). This AD requires repetitive inspections of the NLG door mechanism actuator shaft assemblies having certain part numbers, and corrective actions if necessary. This AD would also provide an optional terminating action for the repetitive inspections for Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 18, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0493.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0493; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes. The NPRM published in the **Federal Register** on June 4, 2018 (83 FR 25587). The NPRM was prompted by reports that cracks were found on the door mechanism actuator shaft assemblies of the NLG. The NPRM proposed to require repetitive inspections of the NLG door mechanism actuator shaft assemblies having certain part numbers, and corrective actions if necessary. The NPRM also proposed to provide an optional terminating action for the repetitive inspections for Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. We are issuing this AD to address such cracking, which could lead to an in-flight NLG door opening and possibly result in detachment of the affected door, and consequent damage to, or reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0181, dated September 18, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes. The MCAI states:

> Cracks were reportedly found on nose landing gear (NLG) door actuator shaft assemblies on CN–235 aeroplanes. The subsequent design review determined that combined or multiple rupture of the affected shaft assembly could occur, without this being signalised to the flight crew.
>
> This condition, if not detected and corrected, could lead to an in-flight NLG door opening, possibly resulting in detachment of the affected door, with consequent damage to, or reduced control of, the aeroplane and injury to persons on the ground.
>
> To address this unsafe condition, Airbus Defence & Space (D&S) issued Alert Operators Transmissions AOT–CN235–32–0001 Revision (Rev.) 2 and AOT–C295–32–0001 Rev. 2 to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive detailed (DET) or special detailed [rototest] inspections of the NLG door actuator shaft assembly, as applicable, and, depending on findings, corrective actions [including replacement of any cracked component, or cracked NLG door mechanism actuator shaft assembly with a serviceable part]. This [EASA] AD also introduces a modification for CN–235 aeroplanes as (optional) terminating action for the repetitive inspections as required by this [EASA] AD.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0493.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus Defence and Space has issued Alert Operators Transmission (AOT) AOT–CN235–32–0001, Revision 2, dated October 26, 2016; and AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016. This service information describes procedures for inspections for cracking of the door mechanism actuator shaft assemblies of the NLG, and corrective actions. These documents are distinct since they apply to different airplane models.

Airbus Defence and Space has also issued Service Bulletin SB–235–32–0031C, dated September 22, 2016. This

service information describes procedures for modification of the NLG door latching mechanism.

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

Costs of Compliance

We estimate that this AD affects 14 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	21 work-hours × $85 per hour = $1,785 per inspection cycle.	$0	$1,785 per inspection cycle	$24,990 per inspection cycle.

OPTIONAL TERMINATING ACTION

Action	Labor cost	Parts cost	Cost per product
Modification for Model CN–235 airplanes	10 work-hours × $85 per hour = $850	$33,626	$34,476

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	14 work-hours × $85 per hour = $1,190	$18,720	$19,910

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–10 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–19389; Docket No. FAA–2018–0493; Product Identifier 2017–NM–141–AD.

(a) Effective Date

This AD is effective October 18, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus Defense and Space S.A. airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes.

(2) Model C–295 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by reports that cracks were found on the door mechanism actuator shaft assemblies of the nose landing gear (NLG). We are issuing this AD to address such cracking, which could lead to an in-flight NLG door opening and possibly result in detachment of the affected door, and consequent damage to, or reduced control of the airplane.

(f) Compliance

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

(g) Definition of Affected NLG Door Mechanism Actuator Shaft Assembly

For the purpose of this AD, an affected NLG door mechanism actuator shaft assembly has part number (P/N) 35–42311–00 or P/N 95–42315–00, depending on airplane model.

(h) Detailed and Rototest Inspections

(1) For any affected NLG door mechanism actuator shaft assembly: Before exceeding 600 flight hours accumulated by any NLG door mechanism lever or cam since new, or within 60 flight hours after the effective date of this AD, whichever occurs later, on the NLG door mechanism actuator shaft assembly with the NLG actuator shaft installed, do a detailed inspection for cracking of all installed NLG door mechanism levers and cams, in accordance with the instructions in Airbus Defence and Space Alert Operators Transmission (AOT) AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable. Repeat the inspection thereafter at intervals not to exceed those specified in figure 1 to paragraph (h)(1) of this AD, depending on the findings or corrective actions completed, as specified in paragraphs (i)(1) and (i)(2) of this AD, after the previous inspection.

FIGURE 1 TO PARAGRAPH (h)(1) OF THIS AD—REPETITIVE INSPECTION INTERVALS

Findings/Corrective action completed (after the previous inspection)	Interval (flight hours)
NLG door vibration observed (during previous flights)	150
No findings	300
Damaged components replaced	300
NLG door actuator shaft assembly replaced by new assembly	600

(2) For any affected NLG door mechanism actuator shaft assembly: Before exceeding 1,800 flight hours accumulated by the NLG door shaft of the NLG door mechanism actuator shaft assembly since new, or within 60 flight hours after the effective date of this AD, whichever occurs later, do a rototest or detailed inspection of the NLG door actuator shaft, in accordance with the instructions in Airbus Defence and Space AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable. Repeat the rototest or detailed inspection thereafter at intervals not to exceed those specified in figure 2 to paragraph (h)(2) of this AD, depending on the inspection method used during the most recent inspection.

FIGURE 2 TO PARAGRAPH (h)(2) OF THIS AD—REPETITIVE INSPECTION INTERVALS

Inspection method	Interval (flight hours)
Rototest	900
Detailed	600

(i) Corrective Actions

(1) During any detailed inspection required by paragraph (h)(1) of this AD, if any crack with a length of 18 millimeters (mm) (0.709 inches) or more is found, or if there is more than one crack with a length of less than 18 mm (0.709 inch) found, before further flight, replace the cracked component, or replace the NLG door mechanism actuator shaft assembly with a serviceable part, in accordance with the instructions of Airbus Defence and Space AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable.

(2) During any detailed inspection required by paragraph (h)(1) of this AD, if a single crack with a length of less than 18 mm (0.709 inch) is found, within 5 flight cycles after the detailed inspection when the crack was found, replace any cracked component, or replace the NLG door mechanism actuator shaft assembly with a serviceable part, in accordance with the instructions of Airbus Defence and Space AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable.

(3) During any detailed or rototest inspection required by paragraph (h)(2) of this AD, if any crack is found, before further flight, replace the NLG door mechanism actuator shaft with a serviceable part, in accordance with the instructions of Airbus Defence and Space AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable.

(j) Replacement Not Terminating Action

Accomplishment of any corrective action on an airplane, as required by paragraph (i)(1), (i)(2), or (i)(3) of this AD, as applicable, is not terminating action for the repetitive detailed or rototest inspections required by paragraphs (h)(1) and (h)(2) of this AD, for that airplane.

(k) Optional Terminating Action

For Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes: Modification of the NLG door latching mechanism, in accordance with the Accomplishment Instructions of Airbus Defence and Space Service Bulletin SB–235–32–0031C, dated September 22, 2016, is terminating action for the repetitive inspections required by paragraphs (h)(1) and (h)(2) of this AD, for that airplane.

(l) Parts Installation Limitation

As of the effective date of this AD, installation of an NLG door mechanism actuator shaft assembly having P/N 35–42311–00 or P/N 95–42315–00, or any of its components, is allowed, provided that the part is new; or provided that the assembly or the components, as applicable, has passed an inspection; in accordance with the instructions of Airbus Space and Defence AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; or AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; as applicable.

(m) Reporting Not Required

Although Airbus Space and Defence AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016; and AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016; both specify to submit certain information to the manufacturer, this AD does not include that requirement.

(n) Credit for Previous Actions

This paragraph provides credit for the initial inspection required by paragraph (h)(1) and (h)(2) of this AD, and the corrective actions required by paragraphs (i)(1), (i)(2), and (i)(3) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (n)(1) through (n)(4) of this AD.

(1) Airbus Space and Defence AOT AOT–CN235–32–0001, dated September 29, 2015.

(2) Airbus Space and Defence AOT AOT–CN235–32–0001, Revision 1, dated February 19, 2016.

(3) Airbus Space and Defence AOT AOT–C295–32–0001, dated September 29, 2015.

(4) Airbus Space and Defence AOT AOT–C295–32–0001, Revision 1, dated February 19, 2016.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA,

has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (p)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0181, dated September 18, 2017, for related information, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0493.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

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

(q) Material Incorporated by Reference

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

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

(i) Airbus Defence and Space AOT AOT–CN235–32–0001, Revision 2, dated October 26, 2016.

(ii) Airbus Defence and Space AOT AOT–C295–32–0001, Revision 2, dated October 26, 2016.

(iii) Airbus Defence and Space Service Bulletin SB–235–32–0031C, dated September 22, 2016.

(3) For service information identified in this AD, contact Airbus Defense and Space Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@airbus.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 23, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19183 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0506; Product Identifier 2018–NM–045–AD; Amendment 39–19378; AD 2018–17–24]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 airplanes. This AD was prompted by the discovery of inadequate corrosion protection in certain areas of the horizontal stabilizer and the rear fuselage cone structure. This AD requires application of sealant and protective treatment on the affected areas of the horizontal stabilizer and the rear fuselage cone structure and, for certain airplanes, modification of the trimmable horizontal stabilizer (THS) torsion box and re-identification of the elevator. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 18, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0506.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0506; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 airplanes. The NPRM published in the **Federal Register** on June 11, 2018 (83 FR 26882). The NPRM was prompted by the discovery of inadequate corrosion protection in certain areas of the horizontal stabilizer and the rear fuselage cone structure. The NPRM proposed to require application of sealant and protective treatment on the affected areas of the horizontal stabilizer and the rear fuselage cone structure and, for certain airplanes, modification of the THS torsion box and re-identification of the elevator.

We are issuing this AD to address reduced structural integrity of the horizontal stabilizer and the rear fuselage cone structure.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0036, dated February 7, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 airplanes. The MCAI states:

In some areas of the Horizontal Tail Plane (HTP) [horizontal stabilizer] and fuselage Section (S) 19 [rear fuselage cone structure], the interfay sealant for multimaterial joints (hybrid joints) was only applied on the surface in direct contact with aluminium parts and not between all surfaces of the joint parts. This situation does not ensure full barrier properties. To avoid any risk of water ingress in multi-material-stacks involving aluminium, it is necessary to apply interfay sealant between all assembled parts, even between parts made of corrosion resistant material. This ensures a double barrier in the joint and prevents subsequent potential galvanic corrosion on the aluminum holes on top of the single barrier already applied in aluminium parts.

This condition, if not corrected, could reduce the structural integrity of the HTP and fuselage at S19.

To address this unsafe condition, Airbus developed production mod [Modification] 106695 for fuselage at S19 and mod 107824 for HTP to improve protection against corrosion, and issued [Airbus] SB [Service Bulletin] A350–53–P029 (Airbus mod 110281) and [Airbus] SB A350–55–P003 (Airbus mod 107877 and mod 108494) to provide modification instructions for in-service pre-mod aeroplanes.

For the reasons described above, this [EASA] AD requires application of sealant and protective treatment on the affected areas of the HTP and fuselage at S19 and, for certain aeroplanes, modification of the trimmable horizontal stabilizer (THS) torsion box [and re-identification of the elevator].

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0506.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued Service Bulletin A350–53–P029, dated November 17, 2017. This service information describes procedures to apply sealant and protective treatment on the affected areas of the rear fuselage cone structure.

Airbus SAS has issued Service Bulletin A350–55–P003, dated November 6, 2017. This service information describes procedures to apply sealant and protective treatment on the affected areas of the horizontal stabilizer, modify the THS torsion box in zone 330 and 340, and re-identify the elevator in zone 335 and 345.

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

Costs of Compliance

We estimate that this AD affects 6 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 57 work-hours × $85 per hour = $4,845	Unavailable	Up to $4,845	Up to $29,070.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–17–24 Airbus SAS: Amendment 39–19378; Docket No. FAA–2018–0506; Product Identifier 2018–NM–045–AD.

(a) Effective Date

This AD is effective October 18, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes certificated in any category, all manufacturer serial numbers, except those on which Airbus Modification 106695 (or retrofit Modification 110281) and Modification 107824 (or retrofit Modification 107877 and retrofit Modification 108494) have been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage; 55, Stabilizers.

(e) Reason

This AD was prompted by the discovery of inadequate corrosion protection in certain areas of the horizontal stabilizer and the rear fuselage cone structure. We are issuing this AD to prevent reduced structural integrity of the horizontal stabilizer and the rear fuselage cone structure.

(f) Compliance

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

(g) Definitions

(1) For the purpose of this AD, Group 1 airplanes are those with manufacturer serial numbers (MSNs) listed in Section 1.A., ''Applicability'' of Airbus Service Bulletin A350–53–P029, dated November 17, 2017.

(2) For the purpose of this AD, Group 2 airplanes are those with MSNs listed in Section 1.A., ''Applicability'' of Airbus Service Bulletin A350–55–P003, dated November 6, 2017.

(h) Modification

(1) For Group 1 airplanes: Before exceeding 36 months since the date of issuance of the original standard airworthiness certificate or date of issuance of the original export certificate of airworthiness, or within 90 days after the effective date of this AD, whichever occurs later, apply sealant and protective treatment on the affected areas of the rear fuselage cone structure, as defined in, and in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–53–P029, dated November 17, 2017.

(2) For Group 2 airplanes: Before exceeding 36 months since the date of issuance of the original standard airworthiness certificate or date of issuance of the original export certificate of airworthiness, or within 90 days after the effective date of this AD, whichever occurs later, accomplish concurrently the actions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–55–P003, dated November 6, 2017.

(i) Apply sealant and protective treatment on the affected areas of the horizontal stabilizer, as defined in Airbus Service Bulletin A350–55–P003, dated November 6, 2017.

(ii) Modify the trimmable horizontal stabilizer (THS) torsion box in zone 330 and 340, and re-identify the elevator in zone 335 and 345.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0036, dated February 7, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0506.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A350–53–P029, dated November 17, 2017.

(ii) Airbus Service Bulletin A350–55–P003, dated November 6, 2017.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 17, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19749 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0765; Product Identifier 2018–NM–105–AD; Amendment 39–19379; AD 2018–17–25]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by reports of uncommanded motion of the flight control actuator. This AD requires replacing certain rudder and elevator servocontrols with serviceable

servocontrols. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 28, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 28, 2018.

We must receive comments on this AD by October 29, 2018.

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

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

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0765.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0765; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0145R3, dated July 24, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states:

> Two occurrences were reported of flight control actuator uncommanded motion on Airbus A350 aeroplanes. Further investigations performed by the servocontrol manufacturer (MOOG Aircraft Group) revealed that both events were caused by foreign object debris blocking a receiver port inside the Electro Hydraulic Servo Valve (EHSV), which is a component fitted on the servocontrol. In both cases, materials found in the EHSV first stage were consistent with debris generated by rework activity during manufacturing process.
>
> This condition, if not corrected, could lead to an uncommanded flight control actuator movement, or an unresponsive flight control actuator while in active mode, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued the AOT [Alert Operators Transmission A27P012–18], identifying the affected parts and providing instructions to remove the affected parts from service.
>
> For the reasons described above, EASA issued AD 2018–0145 (later revised) to require replacement of the affected parts with serviceable parts.
>
> Since EASA AD 2018–0145R2 was issued, it was determined that the information concerning the markings on a servocontrol after in-shop rework/modification (see Definitions, serviceable part) were not entirely correct. This [EASA] AD is revised accordingly to make the necessary correction.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0765.

Related Service Information Under 1 CFR Part 51

Airbus SAS has issued Alert Operators Transmission A27P012–18, Rev 01, dated May 29, 2018, including Appendixes 1 through 6. This service information describes procedures for replacing affected servocontrols with serviceable servocontrols. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the unsafe condition could lead to uncommanded flight control actuator movement, or an unresponsive flight control actuator while in active mode, possibly resulting in reduced controllability of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0765; Product Identifier 2018–NM–105–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 15 work-hours × $85 per hour = $1,275	Up to $548,876	Up to $550,151	Up to $6,051,661.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–17–25 Airbus SAS: Amendment 39–19379; Docket No. FAA–2018–0765; Product Identifier 2018–NM–105–AD.

(a) Effective Date

This AD becomes effective September 28, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by reports of uncommanded motion of the flight control actuator. We are issuing this AD to address blocked receiver ports on certain servocontrols installed on the elevators and rudders. This condition, if not corrected, could lead to an uncommanded flight control actuator movement, or an unresponsive flight control actuator while in active mode, possibly resulting in reduced controllability of the airplane.

(f) Compliance

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

(g) Definitions

For the purposes of this AD the following definitions apply:

(1) Affected part: A servocontrol having a part number and serial number specified in Appendix 2 of Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018.

(2) Serviceable part: A servocontrol having a part number and serial number not specified in Appendix 2 of Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018; or an affected part that was reworked or modified in-shop and identified by ''27–06'' (rudder servocontrol) or ''27–04'' (elevator servocontrol) marked after the serial number of the servocontrol; or an affected part that has been modified on the airplane by replacing the servo module in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018, including Appendixes 2 through 6.

(3) Groups: Group 1 airplanes have any affected part installed. Group 2 airplanes do not have any affected part installed.

(4) Flight hours: The flight hours indicated in table 1 to paragraphs (g)(4) and (h) of this AD are those accumulated by an affected part since its first installation on an airplane. In case these flight hours are unknown, the flight hours accumulated by the affected elevator or rudder since its first installation on an airplane apply.

TABLE 1 TO PARAGRAPHS (g)(4) AND (h) OF THIS AD—SERVOCONTROLS REPLACEMENT

Flight hours (FH) accumulated	Compliance time
Fewer than 1,200 FH	Before exceeding 1,200 FH, or within 30 days after the effective date of this AD, whichever occurs later.
1,200 FH or more	Within 9 months after the effective date of this AD.

(h) Replacement

For Group 1 airplanes: Within the applicable compliance time specified in table 1 to paragraphs (g)(4) and (h) of this AD, replace each affected part with a serviceable part, in accordance with the instructions in Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018, including Appendixes 2 through 6.

(i) No Reporting Requirement

Although Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018, specifies to submit certain information to the manufacturer and refers to Appendix 1 of Airbus Alert Operators Transmission (AOT) A27P012–18, Rev 01, dated May 2018, this AD does not include that requirement.

(j) Parts Installation Prohibition

For Group 1 and Group 2 airplanes: As of the effective date of this AD, no person may install on any airplane an affected part as defined in paragraph (g)(1) of this AD, unless it is a serviceable part as defined in paragraph (g)(2) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0145R3, dated July 24, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0765.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(m) Material Incorporated by Reference

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

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

(i) Airbus Alert Operators Transmission A27P012–18, Rev 01, dated May 29, 2018, including Appendixes 1 through 6.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 17, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19744 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0271; Product Identifier 2017–NM–111–AD; Amendment 39–19396; AD 2018–18–17]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–13–06, which applied to certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. AD 2016–13–06 required a revision of the applicable airplane flight manual (AFM), repetitive inspections of the horizontal stabilizer de-icing boots, and applicable corrective actions. This AD continues to require a revision of the applicable AFM, repetitive inspections of the horizontal stabilizer de-icing boots, and applicable corrective actions. This AD also requires replacement of single stitched de-icing boots with improved double stitched boots, and re-identification of the modified horizontal stabilizer leading edge. This AD was prompted by reports of ruptured horizontal stabilizer de-icing boots. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 1, 2016 (81 FR 41432, June 27, 2016).

ADDRESSES: For service information identified in this final rule, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; phone: +46 13 18 5591; fax: +46 13 18 4874; email: *saab340techsupport@saabgroup.com;* internet: *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0271.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0271; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–13–06, Amendment 39–18570 (81 FR 41432, June 27, 2016) (''AD 2016–13–06''). AD 2016–13–06 applied to certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The NPRM published in the **Federal Register** on April 17, 2018 (83 FR 16792). The NPRM was prompted by reports of ruptured horizontal stabilizer de-icing boots. The NPRM proposed to continue to require a revision of the applicable AFM, repetitive inspections of the horizontal stabilizer de-icing boots, and applicable corrective actions. The NPRM also proposed to require replacement of single stitched de-icing boots with improved double stitched boots, and re-identification of the modified horizontal stabilizer leading edge. We are issuing this AD to detect and correct ruptured horizontal stabilizer de-icing boots, which could lead to complete loss of the de-icing function within its associated zone and severe vibrations, possibly resulting in reduced control of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0144, dated August 9, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The MCAI states:

> Several occurrences were reported of rupture of the horizontal stabilizer de-icing boot in flight. In some of the reported events, the de-icing boot had formed a large open scoop.
>
> This condition, if not detected and corrected, could lead to complete loss of the de-icing function within its associated zone and severe vibrations, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Saab AB, Aeronautics (hereafter referred to as ''Saab'' in this [EASA] AD) issued Alert Operations Bulletin (AOB) No. 12 and AOB No. 23 as temporary measures, recommending to select Flaps 0 for landing in the event of a suspected rupture of the deicing boot on the horizontal stabilizer. In addition, Saab issued SB [Service Bulletin] 340–30–094 providing instructions for inspection of de-icing boots.
>
> Consequently, EASA issued AD 2015–0129 [which corresponds to FAA AD 2016–13–06] to require amendment of the applicable Aircraft Flight Manual (AFM), repetitive inspections of the horizontal stabilizer deicing boots and, depending on findings, accomplishment of applicable corrective action(s).
>
> Since that [EASA] AD was issued, Saab developed an improved de-icing boot, reinforced through double stitch lines, and issued SB 340–30–095 providing instructions for boot replacement.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2015–0129, which is superseded, and requires replacement of single stitched deicing boots, installed on the left-hand (LH) and right-hand (RH) horizontal stabilizer, with improved double stitched boots, and reidentification of the modified horizontal stabilizer leading edge.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0271.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Saab AB, Saab Aeronautics has issued the following service information.

- Service Bulletin 340–30–094, dated March 27, 2015. This service information describes procedures for repetitive detailed inspections of the de-icing boots installed on the horizontal stabilizers, and repair and replacement of damaged de-icing boots.
- Service Bulletin 340–30–095, dated April 3, 2017. This service information describes procedures for replacement of single stitched de-icing boots with improved double stitched boots, and re-identification of the modified horizontal stabilizer leading edge.

Saab AB, Saab Aeronautics has also issued the following AFMs, which describe performance limitations and general data. These AFMs are distinct since they apply to different airplane models in different configurations.

- AFM 340A 001, Revision 57, dated March 27, 2015.
- AFM 340B 001, Revision 35, dated March 27, 2015.
- AFM 340B 010, Revision 28, dated March 27, 2015.

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

Costs of Compliance

We estimate that this AD affects 51 airplanes of U.S. registry.

The actions required by AD 2016–13–06, and retained in this AD take about 6 work-hours per product, at an average labor rate of $85 per workhour. Based on these figures, the estimated cost of the actions that are required by AD 2016–13–06 is $510 per product.

In addition, we estimate that any necessary follow-on actions required by AD 2016–13–06, and retained in this AD take about 6 work-hours and require parts costing $9,500, for a cost of $10,010 per product. We have no way of determining the number of aircraft that might need these actions.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $13,500 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $714,510, or $14,010 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–13–06, Amendment 39–18570 (81 FR 41432, June 27, 2016), and adding the following new AD:

2018–18–17 Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Amendment 39–19396; Docket No. FAA–2018–0271; Product Identifier 2017–NM–111–AD.

(a) Effective Date

This AD is effective October 18, 2018.

(b) Affected ADs

This AD replaces AD 2016–13–06, Amendment 39–18570 (81 FR 41432, June 27, 2016) (''AD 2016–13–06'').

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics (Type Certificate Previously Held by Saab AB, Saab Aerosystems) airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes, serial numbers (S/Ns) 004 through 138 inclusive, on which Saab Modification 1462 has been embodied in production, or Saab Service Bulletin 340–55–008 has been embodied in service, except those on which Saab Modification 1793 has also been embodied in production, or Saab Service Bulletin 340–55–010 has been embodied in service; and Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes, S/Ns 139 through 159 inclusive.

(2) Saab AB, Saab Aeronautics Model SAAB 340B airplanes, S/Ns 160 through 459 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by reports of ruptured horizontal stabilizer de-icing boots. We are issuing this AD to detect and correct ruptured horizontal stabilizer de-icing boots, which could lead to complete loss of the deicing function within its associated zone and severe vibrations, possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Retained Revision of the Airplane Flight Manual (AFM), With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–13–06, with no changes. Within 30 days after August 1, 2016 (the effective date of AD 2016–13–06), revise the ''Abnormal Procedures'' section of the applicable Saab 340 AFM to incorporate the revision specified in paragraphs (g)(1) through (g)(3) of this AD.

(1) For Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes, revise Saab AFM 340A 001 by incorporating Revision 57, dated March 27, 2015.

(2) For Saab AB, Saab Aeronautics Model SAAB 340B airplanes, revise Saab AFM 340B 001 by incorporating Revision 35, dated March 27, 2015.

(3) For Saab AB, Saab Aeronautics Model SAAB 340B airplanes with extended wing tips, revise Saab AFM 340B 010 by incorporating Revision 28, dated March 27, 2015.

(h) Retained Inspection/Replacement, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–13–06, with no changes. Within 400 flight hours or 6 months, whichever occurs first after August 1, 2016 (the effective date of AD 2016–13–06), do a detailed inspection for damage of the horizontal stabilizer de-icing boots, and existing repairs of horizontal stabilizer de-icing boots, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–30–094, dated March 27, 2015. Repeat the inspection thereafter at intervals not to exceed 400 flight hours. If, during any inspection required by this paragraph, any damage or existing repair outside the limits specified in Saab Service Bulletin 340–30–094, dated March 27, 2015, is found, before further flight, repair or replace the horizontal stabilizer de-icing boots, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–30–094, dated March 27, 2015. Repair or replacement on an airplane of the horizontal stabilizer de-icing boots, as required by this paragraph, does not constitute terminating action for the repetitive inspections required by this paragraph for that airplane.

(i) New Requirement of This AD: Modification

Within 18 months after the effective date of this AD, modify the airplane by replacing

the single stitched de-icing boots installed on the left-hand (LH) and right-hand (RH) horizontal stabilizers with double stitched de-icing boots and re-identify the LH and RH horizontal stabilizer leading edge, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–30–095, dated April 3, 2017.

(j) Terminating Action for the Requirements of Paragraph (h) of this AD

Modification of an airplane as required by paragraph (i) of this AD, constitutes terminating action for the repetitive inspections required by paragraph (h) of this AD, for that airplane.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0144, dated August 9, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0271.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on October 18, 2018.

(i) Saab Service Bulletin 340–30–095, dated April 3, 2017.

(ii) Reserved.

(4) The following service information was approved for IBR on August 1, 2016 (81 FR 41432, June 27, 2016).

(i) Saab Service Bulletin 340–30–094, dated March 27, 2015.

(ii) Saab AFM 340A 001, Revision 57, dated March 27, 2015.

(iii) Saab AFM 340B 001, Revision 35, dated March 27, 2015.

(iv) Saab AFM 340B 010, Revision 28, dated March 27, 2015.

(5) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; phone: +46 13 18 5591; fax: +46 13 18 4874; email: *saab340techsupport@saabgroup.com;* internet: *http://www.saabgroup.com.*

(6) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 23, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19748 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0112; Product Identifier 2017–NM–161–AD; Amendment 39–19392; AD 2018–18–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracking in certain flanges, and the adjacent web, of the wing outboard flap track at certain positions, and a determination that new inspections of certain flap track flanges and webs forward of the rear spar attachment are necessary. This AD requires an inspection to determine the part number of the wing outboard flap track assembly; repetitive inspections of each affected wing outboard flap track for discrepancies, and applicable on-condition actions; and repetitive overhaul of each wing outboard flap track. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 18, 2018.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0112.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0112; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Payman Soltani, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model

737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on February 21, 2018 (83 FR 7425). The NPRM was prompted by reports of cracking in certain flanges, and the adjacent web, of the wing outboard flap track at certain positions, and a determination that new inspections of certain flap track flanges and webs forward of the rear spar attachment are necessary. The NPRM proposed to require an inspection to determine the part number of the wing outboard flap track assembly; repetitive inspections of each affected wing outboard flap track for discrepancies, and applicable on-condition actions; and repetitive overhaul of each wing outboard flap track.

We are issuing this AD to detect and correct cracking of the wing outboard flap tracks. Cracking in the area between the forward and rear spar attachments of the wing outboard flap tracks could lead to the inability of a principal structural element to sustain required flight loads, and result in loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

Comments

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

Request To Extend the Compliance Time

All Nippon Airways (ANA) and Utair Aviation requested that paragraph (h) of the proposed AD be revised to extend the compliance time from 6 months to 18 months after the effective date of the final rule. The commenters are concerned that there are not enough spare flap track parts available. The commenters indicated that overhaul of the removed flap tracks takes significant time, and if the final rule is released without a sufficient number of spare flap tracks available, there could be a long-term aircraft on ground (AOG) situation if the proposed compliance times are used.

Furthermore, Utair Aviation stated that a review of maintenance records on 38 airplanes for flap tracks at positions 1 and 8 did not find any records of inspections or overhaul, and it would not be able to replace the subject flap tracks within the compliance time specified in the proposed AD. Utair Aviation also noted that it took 60 days, including shipping, to replace the outboard flap tracks for similar requirements specified in AD 2013–09–02, Amendment 39–17443 (78 FR 27010, May 9, 2013).

We do not agree with the commenters' requests. The 6-month compliance time for inspection and overhaul is applicable only to flap tracks that have unknown maintenance records and flap tracks that were last overhauled several years ago. Airplanes with flap tracks that have known maintenance records generally have later compliance times, depending on how long it has been since the flap tracks were overhauled. The NPRM was issued to address findings of stress corrosion cracking in the flap tracks. Stress corrosion cracking is more likely to occur in flap tracks that have been in operation for a longer time. Flap tracks with unknown maintenance records and flap tracks that were last overhauled several years ago are more susceptible to the unsafe condition. The probability of the existence of stress corrosion cracking on flap tracks with unknown maintenance history is higher and warrants the shorter compliance time. We have verified that spare flap tracks are available on the parts surplus market; however, since we do not know how many flap tracks have unknown maintenance records, it is difficult to estimate how many spare flap tracks will be necessary to meet the demand. If there is a critical shortage of parts, operators may contact the FAA and request an adjustment to the compliance time using the procedures specified in paragraph (l) of this AD. We might approve a longer compliance time if additional data are presented that would justify an extension to the compliance time while still maintaining an adequate level of safety.

We urge operators to seek out maintenance records for their flap tracks in order to justify use of the extended compliance times specified in Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017. We cannot justify extending the compliance times for flap tracks without maintenance records to 18 months. We have not changed this AD in regard to this issue.

Request To Omit Inspection 1 in the Service Information

Utair Aviation stated that it is inadvisable to require operators to do the inspections included in ''INSPECTION 1,'' as defined in Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017. The commenter noted that ''ACTION 1'' in Table 1 and Table 2 of paragraph 3, ''Compliance,'' of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, states that operators need to do INSPECTION 1. The commenter suggested that ''ACTION 2,'' overhaul of each affected flap track, would already include all of the inspections included in INSPECTION 1.

We infer that the commenter is requesting that the proposed requirement to do the inspections included in INSPECTION 1 of the specified service bulletin be removed from the proposed AD. We do not agree with the commenter's request. ACTION 1 and ACTION 2 have different purposes. The inspections included in ACTION 1 are intended to detect specific existing damage on the flap track, including cracks, nicks, corrosion, galling, broken pieces, and stop drills. The intention of ACTION 2, overhaul of each affected flap track, is a visual examination for defects. The intent of this visual examination during overhaul is to identify additional discrepancies, such as excessive wear or degraded surface finish, that might not be noted during INSPECTION 1. It is important to detect these additional discrepancies since they can be early indicators of stress corrosion cracking. Since the inspections to detect specific existing damage on the flap track are not included in the overhaul instructions, it is necessary to require both ACTION 1 and ACTION 2 in this AD. We have not changed this AD in regard to this issue.

Request for Alternative To Overhaul

ANA requested that an alternative to overhaul of the flap tracks be provided that does not involve removing the flap tracks from the wing. The commenter suggested that an on-wing inspection could be used instead of the overhaul. The commenter is concerned that there is not a sufficient supply of spare flap track parts.

We do not agree with the commenter's request. There is no on-wing inspection method available that can detect the additional discrepancies that overhaul of the flap tracks is designed to address. The concern regarding availability of spare flap track parts was addressed in the response to an earlier comment. We have not changed this AD in regard to this issue.

Request To Revise Parts Installation Limitation Paragraph

Boeing requested that the Parts Installation Limitation Paragraph, paragraph (k) in the proposed AD, be revised to allow flap tracks to be installed and inspected at the time of installation. Boeing noted that paragraph (k) states ''. . . no person may install a flap track unless the flap track is inspected prior to installation.'' Boeing pointed out that there are several

inspections that pertain to the track-to-wing joint, which cannot be accomplished until after the flap track is installed.

We agree with the commenter's request for the reasons provided by the commenter. We have revised paragraph (k) of this AD to state ''As of the effective date of this AD, no person may install, on any airplane, a wing outboard flap track having a part number listed in paragraph 1.B. of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, unless the inspections . . . are accomplished prior to or concurrently with the part's installation on the airplane.''

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the installation of winglets using Supplemental Type Certificate (STC) ST01219SE does not affect compliance with the actions proposed in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Additional Change to This AD

The proposed AD included Note 1 to paragraph (h), which stated that guidance for accomplishing the proposed actions could be found in Boeing Alert Service Bulletin 737–57A1338, dated September 25, 2017, which is referred to in Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017. Since the proposed AD was published, Boeing has issued Boeing Information Notice 737–57A1338 IN 01, dated October 16, 2017; Boeing Information Notice 737–57A1338 IN 02, dated March 16, 2018; and Boeing Information Notice 737–57A1338 IN 03, dated March 20, 2018. These information notices provide additional guidance material related to Boeing Alert Service Bulletin 737–57A1338, dated September 25, 2017, including clarification of compliance times for spares (not AD compliance times), inspection figures, and the relationship between flap track part numbers and airplanes groups. We have revised Note 1 to paragraph (h) in this AD to include these information notices.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017. This service information describes procedures for repetitive inspections and repetitive overhaul of the wing outboard flap tracks, and applicable on-condition actions including repair and replacement of the wing outboard flap tracks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 160 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (positions 1 and 8; Group 2 and Group 3, configuration 1).	78 work-hours × $85 per hour = $6,630 per cycle.	$0	$6,630 per cycle	$1,060,800 per cycle.
Inspection (positions 1 and 8; Group 3, configuration 2).	89 work-hours × $85 per hour = $7,565 per cycle.	0	7,565 per cycle	1,210,400 per cycle.
Inspection (positions 2 and 7; Group 2 and Group 3, configuration 1).	83 work-hours × $85 per hour = $7,055 per cycle.	0	7,055 per cycle	1,128,800 per cycle.
Inspection (positions 2 and 7; Group 3, configuration 2).	86 work-hours × $85 per hour = $7,310 per cycle.	0	7,310 per cycle	1,169,600 per cycle.

We have received no definitive data that will enable us to provide cost estimates for the actions for Group 1 airplanes, the repetitive overhaul, or the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

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

the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–13 The Boeing Company: Amendment 39–19392; Docket No. FAA–2018–0112; Product Identifier 2017–NM–161–AD.

(a) Effective Date

This AD is effective October 18, 2018.

(b) Affected ADs

This AD affects AD 2013–09–02, Amendment 39–17443 (78 FR 27010, May 9, 2013) (''AD 2013–09–02'').

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracking in certain flanges, and the adjacent web, of the wing outboard flap track at certain positions, and a determination that new inspections of certain flap track flanges and webs forward of the rear spar attachment are necessary. We are issuing this AD to detect and correct cracking of the wing outboard flap tracks. Cracking in the area between the forward and rear spar attachments of the wing outboard flap tracks could lead to the inability of a principal structural element to sustain required flight loads, and result in loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017: Within 120 days after the effective date of this AD, do actions to correct the unsafe condition using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(h) Required Actions

For airplanes not specified in paragraph (g) of this AD: Except as required by paragraph (i) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017.

Note 1 to paragraph (h) of this AD: Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–57A1338, dated September 25, 2017, which is referred to in Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017. Additional guidance can be found in Boeing Information Notice 737–57A1338 IN 01, dated October 16, 2017; Boeing Information Notice 737–57A1338 IN 02, dated March 16, 2018; and Boeing Information Notice 737–57A1338 IN 03, dated March 20, 2018.

(i) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, uses the phrase ''the original issue date of Requirements Bulletin 737–57A1338 RB,'' this AD requires using ''the effective date of this AD.''

(j) Terminating Action for Requirements of AD 2013–09–02

Accomplishment of the requirements specified in paragraph (h) of this AD terminates all requirements of AD 2013–09–02.

(k) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, a wing outboard flap track having a part number listed in paragraph 1.B. of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, unless the inspections and corrective actions specified in the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017, are accomplished prior to or concurrently with the part's installation on the airplane.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (m)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Payman Soltani, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712 4137; phone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

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

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Boeing Alert Requirements Bulletin 737–57A1338 RB, dated September 25, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740 5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on August 24, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19185 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0418; Product Identifier 2017–SW–016–AD; Amendment 39–19390; AD 2018–18–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model AS–365N2 and AS 365 N3 helicopters with a lower strobe light installed. This AD requires installing a cable mount, inspecting the lower strobe light wiring harness, and re-routing the wiring harness. This AD was prompted by reports of interference between the lower strobe light wiring harness and the helicopter structure. The actions of this AD are intended to prevent an unsafe condition on these helicopters.

DATES: This AD is effective October 18, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of October 18, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0418.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0418; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 11, 2018, at 83 FR 21964, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model AS–365N2 and AS 365 N3 helicopters with a lower strobe light installed.

The NPRM proposed to require installing a cable mount on the helicopter structure and inspecting the lower strobe light electrical harness and the electrical harness between the cut-off connector and Frame 2000 for torn spiral tape and for any chafing on the harness cables. If the spiral tape is torn, the NPRM proposed to require replacing the spiral tape. If there is any chafing on the cable, the NPRM proposed to require replacing the harness. The proposed requirements were intended to prevent interference between the lower strobe light electrical harness wiring and the helicopter structure, which could result in chafing of an electrical harness adjacent to the inboard fuel tank vapor space, a fuel tank fire, and subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2016–0258, dated December 16, 2016, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model AS 365 N2 and AS 365 N3 helicopters with certain serial numbers and configurations. EASA advises of in-production helicopters with lower strobe light wiring harnesses that were interfering with either the helicopter structure or the adjacent fuel tank support. EASA further states that an investigation determined that the electrical harnesses of these lower strobe lights were manufactured with additional length to facilitate removal and installation of the lower strobe light assembly. However, the additional length of wiring in the harness was not properly secured to the helicopter structure. According to EASA, this could result in chafing of the harness on the helicopter structure, creating an ignition source adjacent to the inboard fuel tank vapor space, and result in a fuel tank fire.

To address this unsafe condition, the EASA AD requires installing a cable mount, inspecting the lower strobe light electrical harness for damage, and re-routing the electrical harness.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD limits the applicability to helicopters with a lower strobe light installed and with certain serial numbers or that are in a configuration based upon a modification, service information, or engineering drawings. This AD applies to all Model AS–365N2 and AS 365 N3 helicopters with a lower strobe light installed.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin No. AS365–05.00.73, Revision 1, dated December 12, 2016, which specifies procedures for inspecting the lower strobe light electrical harness for interference and chafing with the helicopter structure and also specifies procedures for installing a cable mount to secure the electrical harness. These procedures correspond to Airbus Helicopters modification (MOD) 365P084778.00.

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

Costs of Compliance

We estimate that this AD affects 30 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD.

At an average labor rate of $85 per work-hour, installing a cable mount and inspecting the strobe light wiring harnesses requires about 1 work-hour, and required parts cost about $50, for a cost of $135 per helicopter and a total cost of $4,050 to all U.S. operators.

If required, replacing torn spiral tape requires about 1 work-hour, and required parts cost $45, for a cost of $130 per helicopter.

If required, replacing a chafed wiring harness between the cut-off connector and Frame 2000 requires about 3 work-hours, and required parts cost $90, for a cost of $345 per helicopter.

If required, replacing a chafed lower strobe light wiring harness requires about 3 work-hours, and required parts cost $154, for a cost of $409 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–18–11 Airbus Helicopters: Amendment 39–19390; Docket No. FAA–2018–0418; Product Identifier 2017–SW–016–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS–365N2 and AS 365 N3 helicopters, certificated in any category, with a lower strobe light installed.

(b) Unsafe Condition

This AD defines the unsafe condition as interference between the lower strobe light electrical harness wiring and the helicopter structure. This condition could result in chafing of an electrical harness adjacent to the inboard fuel tank vapor space, a fuel tank fire, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective October 18, 2018.

(d) Compliance

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

(e) Required Actions

Within 50 hours time-in-service:

(1) Install cable mount part number (P/N) ASMS–A to the helicopter structure as depicted in Figure 1, Detail A and Detail C, of Airbus Helicopters Alert Service Bulletin No. AS365–05.00.73, Revision 1, dated December 12, 2016 (ASB AS365–05.00.73).

(2) Inspect the lower strobe light harness and the harness between the cut-off connector and Frame 2000 for tears in the spiral tape and for chafing of the harness wires. If there is a tear in the spiral tape, before further flight, replace the spiral tape. If there is any chafing, before further flight, replace the chafed harness.

(3) Route the lower strobe light harness and the harness between the cut-off connector and Frame 2000 and secure as depicted in Figure 1, Detail A and Section B–B, of ASB AS365–05.00.73.

Note 1 to paragraph (e) of this AD: Airbus Helicopters identifies the actions in ASB AS365–05.00.73 as Modification 365P084778.00.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016–0258, dated December 30, 2016. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2018–0418.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3340, Lights.

(i) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin No. AS365–05.00.73, Revision 1, dated December 12, 2016.

(ii) Reserved.

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.*

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

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

Issued in Fort Worth, Texas, on August 28, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–19432 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1202; Airspace Docket No. 17–AWP–31]

RIN 2120–AA66

Establishment of Class E Airspace, Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E en route airspace extending upward from 1,200 feet above the surface to accommodate instrument flight rules (IFR) aircraft under control of the Los Angeles Air Route Traffic Control Center (ARTCC), Los Angeles, CA. Establishment of this airspace area would ensure controlled airspace exists in those areas where the Federal airway structure is inadequate. This action also corrects an error in one of the longitude coordinates in the airspace description.

DATES: Effective 0901 UTC, November 8, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E en route airspace extending upward from 1,200 feet above the surface to support IFR aircraft under control of the Los Angeles ARTCC, Los Angeles, CA.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (83 FR 24050; May 24, 2018) for Docket No. FAA–2017–1202 to establish Class E en route airspace extending 1,200 feet above the surface for IFR aircraft under control of the Los Angeles ARTCC, Los Angeles, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received in support of this action.

Subsequent to publication, a typographical error was discovered in one of the coordinates listed in the airspace description. The longitude coordinate of ''lat. 32°32′03″ N, long. 117°07′25″ W'' is amended to ''lat. 32°32′03″ N, long. 117°07′29″ W'' to correct the error.

Class E airspace designations are published in paragraph 6006 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E en route airspace extending upward from 1,200 feet above the surface to accommodate instrument flight rules (IFR) aircraft under control of the Los Angeles Air Route Traffic Control Center (ARTCC), Los Angeles, CA to ensure controlled airspace exists in those areas where the Federal airway structure is inadequate.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AWP CA E6 Los Angeles, CA [NEW]

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 35°17′00″ N, long. 121°25′28″ W; to lat. 35°32′00″ N, long. 120°51′00″ W; to lat. 35°37′00″ N, long. 120°33′45″ W; to lat. 35°38′30″ N, long. 120°28′30″ W; to lat. 35°41′58″ N, long. 120°17′17″ W; to lat. 35°43′00″ N, long. 120°13′55″ W; to lat. 35°45′00″ N, long. 120°07′00″ W; to lat. 35°43′11″ N, long. 119°55′03″ W; to lat. 35°41′04″ N, long. 119°42′46″ W; to lat. 35°39′39″ N, long. 119°34′35″ W; to lat. 35°38′43″ N, long. 119°29′25″ W; to lat. 35°49′40″ N, long. 119°22′20″ W; to lat. 36°04′30″ N, long. 119°12′30″ W; to lat. 36°08′00″ N, long. 119°10′00″ W; to lat. 36°08′00″ N, long. 119°02′20″ W; to lat. 36°08′00″ N, long. 119°00′00″ W; to lat. 36°08′00″ N, long. 118°35′00″ W; to lat. 36°34′15″ N, long. 118°35′00″ W; to lat. 36°45′45″ N, long. 118°35′00″ W; to lat. 37°04′50″ N, long. 118°35′00″ W; to lat. 37°12′00″ N, long. 118°35′03″ W; to lat. 37°12′00″ N, long. 118°26′00″ W; to lat. 37°12′00″ N, long. 118°00′00″ W; to lat. 37°12′00″ N, long. 117°20′00″ W; to lat. 37°22′00″ N, long. 117°00′30″ W; to lat. 37°26′30″ N, long. 117°04′33″ W; to lat. 37°33′00″ N, long. 117°05′41″ W; to lat. 37°53′00″ N, long. 117°05′41″ W; to lat. 37°53′00″ N, long. 116°50′00″ W; to lat. 37°53′00″ N, long. 116°26′03″ W; to lat. 37°53′00″ N, long. 116°11′03″ W; to lat. 37°59′59″ N, long. 114°42′06″ W; to lat. 38°01′00″ N, long. 114°30′03″ W; to lat. 38°01′00″ N, long. 114°12′03″ W; to lat. 37°53′44″ N, long. 113°42′03″ W; to lat. 37°49′25″ N, long. 113°42′01″ W; to lat. 37°43′00″ N, long. 113°47′00″ W; to lat. 37°30′00″ N, long. 113°00′00″ W; to lat. 37°27′22″ N, long. 112°25′19″ W; to lat. 37°24′50″ N, long. 111°53′45″ W; to lat. 37°24′45″ N, long. 111°52′45″ W; to lat. 37°00′18″ N, long. 111°43′06″ W; to lat. 36°44′00″ N, long. 111°36′30″ W; to lat. 36°30′54″ N, long. 111°32′08″ W; to lat. 36°25′15″ N, long. 111°30′15″ W; to lat. 35°46′00″ N, long. 111°50′30″ W; to lat. 35°24′00″ N, long. 112°00′00″ W; to lat. 35°23′48″ N, long. 112°09′11″ W; to lat. 35°23′00″ N, long. 112°40′00″ W; to lat. 35°15′20″ N, long. 112°55′40″ W; to lat. 34°55′00″ N, long. 113°37′00″ W; to lat. 34°52′00″ N, long. 113°42′00″ W; to lat. 34°40′00″ N, long. 114°00′00″ W; to lat. 33°24′00″ N, long. 114°00′00″ W; to lat. 32°41′00″ N, long. 114°00′00″ W; to lat. 32°44′15″ N, long. 113°41′05″ W; to lat. 32°06′58″ N, long. 113°30′46″ W; to lat. 32°06′00″ N, long. 113°30′30″ W; to lat. 32°15′00″ N, long. 114°00′00″ W; to lat. 32°29′38″ N, long. 114°48′47″ W; to lat. 32°43′07″ N, long. 114°43′07″ W; to lat. 32°38′30″ N, long. 115°48′30″ W; to lat. 32°32′03″ N, long. 117°07′29″ W; to lat. 32°24′00″ N, long. 117°24′38″ W; to lat. 32°35′07″ N, long. 118°29′51″ W; to lat. 33°04′49″ N, long. 119°44′49″ W; to lat. 33°54′53″ N, long. 120°40′02″ W; to lat. 34°50′19″ N, long. 121°10′09″ W, thence to the point of beginning, excluding that airspace offshore beyond 12 miles of the shoreline.

Issued in Seattle, Washington, on August 29, 2018.

Shawn M. Kozica,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–19725 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1145; Airspace Docket No. 17–AWP–19]

RIN 2120–AA66

Amendment of Class E Airspace; Kamuela, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface at Waimea-Kohala Airport, Kamuela, HI by modifying the boundaries to only that area necessary to contain instrument flight rules (IFR) operations at the airport. The part-time Notice to Airmen (NOTAM) status is removed from Class E surface area airspace, and references to the Kamuela VOR/DME is removed from associated Class E airspace areas above. Airspace redesign is necessary as the FAA transitions from ground-based to satellite-based navigation for the safety and management of the national airspace system. Also, an editorial change will be made removing the airport name and replacing it with the city in the airspace designators for the above airspace areas.

DATES: Effective 0901 UTC, February 28, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of this material at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Waimea-Kohala Airport, Kamuela, HI, in support of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 7433; February 21, 2018) for Docket No. FAA–2017–1145 to amend Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface at Waimea-Kohala Airport, Kamuela, HI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by removing the part-time NOTAM status of Class E surface area airspace and defining its boundaries with reference to the Waimea-Kohala Airport, Kamuela, HI (instead of the Kamuela VOR/DME). Class E airspace extends upward from the surface within the 4.3-mile radius of Waimea-Kohala Airport, and within 2.4 miles north and 1.8 miles south of the 069° bearing from the airport extending from the 4.3-mile radius to 7.3 miles east of the airport (currently 1.8 miles northwest of and 2.6 miles southeast of the Kamuela VOR 063° radial, extending from the 4.3-mile radius to 7.8 miles northeast of the Kamuela VOR/DME).

Class E airspace extending upward from 700 feet above the surface will be modified to within a 4.3-mile radius (from a 6.4-mile radius) of Waimea-Kohala Airport and within 4.1 miles each side of the 069° bearing from the airport extending from the 4.3-mile radius to 12.8 miles east of the airport, and within 1.3 miles each side of the 244° bearing from the airport extending from the 4.3-mile radius to 5.8 miles southwest of the airport (currently 2 miles each side of the Kamuela VOR/DME 068° radial, extending from the 6.4-mile radius 12.6 miles northeast of the Kamuela VOR/DME, and within 2 miles each side of the Kamuela VOR/DME 246° extending from the 6.4-mile radius to 13.4 miles southwest of the Kamuela VOR/DME). This airspace redesign expands the airspace areas slightly northeast and reduces the airspace from southeast clockwise to north to only that area necessary to contain IFR operations at the airport.

Additionally, an editorial change replaces Waimea-Kohala Airport, HI, with Kameula, HI, in the airspace designation of the above classes of airspace to comply with a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AWP HI E2 Kamuela, HI [Amended]

Waimea-Kohala Airport, HI
(Lat. 20°00′05″ N, long. 155°40′05″ W)

That airspace extending upward from the surface within a 4.3-mile radius of Waimea-Kohala Airport, and within 2.4 miles north and 1.8 miles south of the 069° bearing from the airport extending from the 4.3-mile radius to 7.3 miles east of the airport.

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

* * * * *

AWP HI E5 Kamuela, HI [Amended]

Waimea-Kohala Airport, HI
(Lat. 20°00′05″ N, long. 155°40′05″ W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Waimea-Kohala Airport, and within 4.1 miles each side of the 069° bearing from the airport extending from the 4.3-mile radius to 12.8 miles east of the airport, and within 1.3 miles each side of the 244° bearing from the airport extending from the 4.3-mile radius to 5.8 miles southwest of the airport.

Issued in Seattle, Washington, on September 5, 2018.

Shawn M. Kozica,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–19727 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0018; Airspace Docket No. 17–AGL–20]

RIN 2120–AA66

Establishment of Class E Airspace; Washington Island, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface, at Washington Island Airport, Washington Island, WI. Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Washington Island Airport, for the safety and management of instrument flight rules (IFR) operations.

DATES: Effective 0901 UTC, November 8, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface, at Washington Island Airport, Washington Island, WI to support IFR operations at the airport.

History

On March 23, 2018, the FAA published in the **Federal Register** (83 FR 12688) Docket No. FAA–2018–0018, a notice of proposed rulemaking (NPRM) to establish Class E airspace extending upward from 700 feet above the surface, at Washington Island Airport, Washington Island, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface to within a 6.0-mile radius of Washington Island Airport, Washington Island, WI.

Controlled airspace is necessary to accommodate new standard instrument approach procedures developed at Washington Island Airport, and for the safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL WI E5 Washington Island, WI [New]

Washington Island Airport, WI
(Lat. 45°23′18″ N, long. 86°55′27″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Washington Island Airport.

Issued in Fort Worth, Texas, on September 5, 2018.

Walter Tweedy,

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

[FR Doc. 2018–19713 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–1088; Airspace Docket No. 17–AWP–25]

RIN–2120–AA66

Revocation of Class E Airspace; Crows Landing, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace extending upward from 1,200 feet above the surface at Crows Landing Airport, Crows Landing, CA. This airspace is wholly contained within the Sacramento en route airspace area and duplication is not necessary.

DATES: Effective 0901 UTC, November 8, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA, 98198–6547; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it clarifies airspace designations by eliminating the redundancy.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (83 FR 8207; February 26, 2018) for Docket No. FAA–2017–1088 to remove Class E airspace extending upward from 1,200 feet above the surface at Crows Landing Airport, Crows Landing, CA, as the airspace already is contained within Class E en route airspace (see 82 FR 27988; June 20, 2017). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes Class E airspace extending upward from 1,200 feet above the surface at Crows Landing Airport, Crows Landing, CA. This airspace is wholly contained within the Sacramento en route airspace area and duplication is not necessary.

Regulatory Notices and Analyses

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

Environmental Review

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

that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AWP CA E5 NASA Crows Landing, CA [Removed]

Issued in Seattle, Washington, on September 5, 2018.

Shawn M. Kozica,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–19871 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0632; Airspace Docket No. 17–AWA–4]

RIN 2120–AA66

Amendment of Chicago Class B and Chicago Class C Airspace; Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment, correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** of August 16, 2018, that amended the Chicago Class B and Chicago Class C airspace area descriptions by changing references to the Chicago O'Hare VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) to ''Point of Origin.'' Additionally, the Chicago Class B and Chicago Class C airspace area descriptions were edited to reflect the Chicago Midway International Airport name change to match the current information in the FAA's aeronautical database. The Chicago Class B airspace description listed in the rule is corrected to reflect updated geographic coordinates for the Chicago O'Hare International Airport airport reference point (ARP), updated geographic coordinates for two points in the Area A description, and updated geographic coordinates for one point in the Area F description.

DATES: Effective date 0901 UTC, October 11, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2018–0632 (83 FR 40662, August 16, 2018), amending the Chicago Class B and Chicago Class C airspace area descriptions by changing references to the Chicago O'Hare VOR/DME to ''Point of OrigiN'' Additionally, the Chicago Class B and Chicago Class C airspace area descriptions were edited to reflect the Chicago Midway International Airport name change. Subsequent to publication, the FAA identified editorial errors in the Chicago Class B description to the geographic coordinates of the Chicago O'Hare International Airport ARP, the geographic coordinates to two points in Area A, and the geographic coordinates to one point in Area F. To accurately reflect the Chicago Class B airspace area on aeronautical charts and digital charting applications, this correction changes the geographic coordinates of the Chicago O'Hare International Airport ARP from ''(lat. 41°58′38″ N, long. 87°54′29″ W)'' to read ''(lat. 41°58′28″ N, long. 87°54′24″ W)''; the geographic coordinates to two points in Area A from ''(lat. 41°57′12″ N, long. 88°01′56″ W)'' to read ''(lat. 41°57′26″ N, long. 88°01′39″ W)'' and from ''(lat. 42°05′03″ N, long. 87°56′26″ W)'' to read ''(lat. 42°05′03″ N, long. 87°56′25″ W)''; and the geographic coordinates to one point in Area F from ''(lat. 41°50′40″ N, long. 88°25′44″ W)'' to read ''(lat. 41°50′39″ N, long. 88°25′43″ W)''.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of August 16, 2018 (83 FR 40662) FR Doc. 2018–17596, Amendment of Chicago Class B and Chicago Class C Airspace; Chicago, IL, is corrected as follows:

§ 71.1 [Amended]

AGL IL B Chicago, IL [Corrected]

On page 40664, column 1, line 33, under Chicago O'Hare International Airport (Primary Airport) remove the text that reads ''(lat. 41°58′38″ N, long. 87°54′29″ W)'' and add in its place ''(lat. 41°58′28″ N, long. 87°54′24″ W)''.

On page 40664, column 1, line 51, under Area A remove the text that reads ''(lat. 41°57′12″ N, long. 88°01′56″ W)'' and add in its place ''(lat. 41°57′26″ N, long. 88°01′39″ W)''.

On page 40664, column 1, lines 56 and 57, under Area A remove the text that reads ''(lat. 42°05′03″ N, long. 87°56′26″ W)'' and add in its place ''(lat. 42°05′03″ N, long. 87°56′25″ W)''.

On page 40664, column 3, line 6, under Area F remove the text that reads ''(lat. 41°50′40″ N, long. 88°25′44″ W)'' and add in its place ''(lat. 41°50′39″ N, long. 88°25′43″ W)''.

Issued in Washington, DC, on September 5, 2018.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2018–19729 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 180718671–8671–01]

RIN 0694–AH57

Addition of Certain Entities to the Entity List, Revision of Entries on the Entity List and Removal of Certain Entities From the Entity List; Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correction.

SUMMARY: On September 4, 2018, BIS published a final rule amending the Export Administration Regulations (EAR) by adding fifteen entities under

seventeen entries to the Entity List. An error of omission left out one Pakistani entity from an amendatory instruction. This correction clarifies that instruction.

DATES: This correction is effective September 13, 2018.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION: On September 4, 2018, at 83 FR 44821, BIS published a rule amending the Entity List in 15 CFR part 744, supplement 4. An amendatory instruction noted the addition of two entities for Pakistan, but provided the name of one only. Both entities appeared in the amendment's regulatory text and were codified on the rule's effective date. This document clarifies the rule by correcting the amendatory instruction to carry the names of both entities as originally intended.

Therefore, in FR Rule Doc. No. 2018–18766, published September 4, 2018, at 83 FR 44821, the following correction is made:

■ 1. On page 44824, in the third column, amendatory instruction 2.d is corrected to read as follows:

■ 2. * * *

■ d. Under Pakistan, by adding in alphabetical order two Pakistani entities ''Technology Link PVT. Ltd.'' and ''UEC (Pvt.) Ltd.'';

Dated: September 7, 2018.

Karen Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2018–19960 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0800]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Making Strides Walk against Breast Cancer event. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 8 a.m. through 11 a.m. on October 14, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0800, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *Carl.T.Hausner@uscg.mil.*

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

The drawspan will be secured in the closed-to-navigation position from 8 a.m. to 11 a.m. on October 14, 2018, to allow the community to participate in the Making Strides Walk against Breast Cancer event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 6, 2018.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–19747 Filed 9–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0343]

RIN 1625–AA00

Safety Zone; S99 Alford Street Bridge—Emergency Grid Replacement Project, Mystic River, Charlestown and Everett, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within 150-yards of the S99 Alford Street Bridge, at mile 1.4 on the Mystic River between Charlestown and Everett, Massachusetts from October 1, 2018 through April 30, 2019. The safety zone is necessary to protect personnel, vessels and the marine environment from potential hazards created during the emergency replacement of the steel grid deck on all four bascule spans of the S99 Alford Street Bridge. This temporary rule would prohibit vessels and persons from being in the safety zone unless authorized by the Captain of the Port Boston or a designated representative.

DATES: This rule is effective from October 1, 2018 through April 30, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0343 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 Mark Cutter, Waterways Management Division, U.S. Coast Guard Sector Boston, telephone 617–223–4000, email *Mark.E.Cutter@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
TFR Temporary Final Rule

§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 6, 2018, the City of Boston notified the Coast Guard that the Massachusetts Department of Transportation's Highways Division will be conducting emergency repairs to the S99 Alford Street Drawbridge at mile 1.4 on the Mystic River between Charlestown and Everett, Massachusetts from May 2018 through the summer of 2019.

In response, on July 17, 2018, the Coast Guard published a Notice of proposed rulemaking (NPRM) titled ''Safety Zone, S99 Alford Street Bridge-Emergency Grid Replacement Project, Mystic River, Charlestown and Everett, MA,'' (83 FR 33165). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During the comment period that ended on August 16, 2018, we received zero (0) comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231.

The COTP Boston has determined that potential hazards exist associated with the emergency replacement of the steel grid deck on all four bascule spans of the S99 Alford Street Bridge. Potential hazards include the use of the waterway underneath the bridge to conduct heavy lift operations, as well as possible falling equipment and materials. This rule is needed to protect personnel, vessels, and the marine environment on navigable waters within 150-yards of the S99 Alford Street Bridge, at mile 1.4 on the Mystic River between Charlestown and Everett, Massachusetts, during these emergency repairs.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on July 17, 2018. There are no changes to the regulatory text of this rule from the proposed rule in the NPRM.

The rule establishes a safety zone enforceable 24 hours a day from 12:01 a.m. on October 1, 2018, to 11:59 p.m. on April 30, 2019. The safety zone covers all navigable waters within 150-yards of the S99 Alford Street Bridge, at mile 1.4 on the Mystic River between Charlestown and Everett, Massachusetts. The zone is intended to ensure the safety of vessels, the maritime public, construction workers, and these navigable waters during the repairs on the S99 Alford Street Bridge over the main channel of the Mystic River. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP Boston or a designated representative.

The Coast Guard will notify the public about this safety zone through the Massachusetts Bay Harbor Safety Committee meetings, Boston's Port Operators Group meetings, and Local Notice to Mariners. Moreover, the Coast Guard will issue a Safety Marine Information Broadcast via marine channel 16 (VHF–FM) fourteen (14) days in advance of the commencement of the safety zone. If the project is completed before April 30, 2019, enforcement of the safety zone will be suspended and notice will be given to the public to the greatest extent possible.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. We expect the adverse economic impact of this rule to be minimal since we will provide ample notice of the safety zone effective dates and vessels will be able to enter the safety zone when construction equipment is not occupying the channel. Although this regulation may have some adverse impact on the public, the potential impact will be minimal because boating season for vessels on the Mystic River usually concludes around mid-October and consequently the amount of traffic in this waterway during the effective period for the safety zone is limited.

This safety zone is of similar dimension and a shorter duration to the one established in 2011 (73916 FR/Vol. 77, No. 239) for the original rehabilitation of the bridge.

Notification of the emergency repairs to the Alford Street Drawbridge and the associated safety zone will be made to mariners through the Massachusetts Bay Harbor Safety Committee meetings, Boston's Port Operators Group meetings, and Local Notice to Mariners. Moreover, the Coast Guard will issue a Safety Marine Information Broadcast via marine channel 16 (VHF–FM) fourteen (14) days in advance of the commencement of the safety zone. The rule will allow vessels to seek permission to enter the zone when the channel is not being occupied by construction equipment.

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 would 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 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, which guides 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 establishing a temporary safety zone extending 150 yards around a bridge to complete emergency repairs to the S99 Alford Street Bridge during a seven-month period when boating traffic is minimal on the Mystic River. It is categorically excluded from further review under paragraph L60(b) 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 a new § 165.T01–0343 to read as follows:

§ 165.T01–0343 Safety zone, S99 Alford Street Bridge—Emergency grid replacement project, Mystic River, Charlestown and Everett, MA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Mystic River between Charlestown and Everett, Massachusetts from surface to bottom, within 150-yards of the S99 Alford Street Bridge, at mile 1.4 on the Mystic River between Charlestown and Everett, Massachusetts.

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

(1) Designated representative means any Coast Guard commissioned, warrant, petty officer, or any federal, state, or local law enforcement officer who has been designated by the Captain of the Port (COTP) Boston, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official patrol vessel means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessel assigned or approved by the COTP Boston to enforce this section.

(c) *Enforcement Periods.* This section is enforceable 24 hours a day from 12:01 a.m. on October 1, 2018, through 11:59 p.m. on April 30, 2019. When enforced as deemed necessary by the COTP Boston, vessels will be prohibited from entering this safety zone during the emergency grid replacement on the bridge.

(d) *Regulations.* The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the COTP Boston or the COTP's designated representatives. However, any person or vessel permitted to enter the safety zone must comply with the directions and orders of the COTP Boston or the COTP's designated representatives.

(2) To obtain permission required by this regulation, individuals may reach the COTP Boston or a COTP designated representative via Channel 16 (VHF–FM) or 617–223–5757 (Sector Boston Command Center).

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

Dated: September 6, 2018.

Eric J. Doucette,

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

[FR Doc. 2018–19746 Filed 9–12–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0416; FRL–9976–65]

Afidopyropen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of afidopyropen, [(3*S*,4*R*,4a*R*,6*S*,6a*S*,12*R*,12a*S*,12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-

6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H*,11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate, including its metabolites and degradates, in or on multiple commodities which are identified and discussed later in this document. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 13, 2018. Objections and requests for hearings must be received on or before November 13, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0416, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0416 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 13, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0416, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 12, 2016 (81 FR 53380) (FRL–9949–53), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8468) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. The petition requested that 40 CFR part 180 be amended by establishing permanent tolerances in primary crops for residues of the insecticide afidopyropen, [(3*S,4R,*4a*R,*6*S,*6a*S,*12*R,*12a*S,*12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H,*11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate, its metabolites, and degradates, in or on the following raw agricultural and processed commodities: Almond, hulls at 0.15 parts per million (ppm); Apple, wet pomace at 0.05 ppm; Citrus, oil at 0.3 ppm; Cotton, gin byproducts at 2 ppm; Cotton, undelinted seed at 0.1 ppm; Fruit, citrus, group 10–10 at 0.15 ppm; Fruit, pome, group 11–10 at 0.03 ppm; Fruit, stone, group 12–12 at 0.03 ppm; Nut, tree, group 14–12 at 0.01 ppm; Plum, prune at 0.06 ppm; Soybean, aspirated grain fractions at 0.4 ppm; Soybean, seed at 0.01 ppm; Vegetable, brassica, head and stem, group 5–13 at 0.5 ppm; Vegetable, cucurbit, group 9 at 0.7 ppm; Vegetable, fruiting, group 8–10 at 0.15 ppm; Vegetable, leaf petioles, subgroup 22B at 3 ppm; Vegetable, leafy, subgroup 4–13A at 2 ppm; Vegetable, leafy, subgroup 4–13B at 5 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.01 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition and EPA policy, the Agency has revised some of the commodity definitions and tolerance levels from the petition, and concluded that the following tolerances are appropriate for afidopyropen in or on the following commodities: Almond, hulls at 0.15 ppm; Apple, wet pomace at 0.05 ppm; Brassica, head and stem, group 5–16 at 0.50 ppm; Brassica, leafy greens, subgroup 4–16B at 5.0 ppm; Citrus, oil at 0.40 ppm; Cotton, gin

byproducts at 2.0 ppm; Cotton, undelinted seed at 0.08 ppm; Fruit, citrus, group 10–10 at 0.15 ppm; Fruit, pome, group 11–10 at 0.02 ppm; Fruit, stone, group 12–12 at 0.03 ppm; Grain, aspirated fractions at 0.15 ppm; Leafy Greens, subgroup 4–16A at 2.0 ppm; Leaf petiole vegetable subgroup 22B at 3.0 ppm; Nut, tree, group 14–12 at 0.01 ppm; Soybean, seed at 0.01 ppm; Tomato, dried at 0.50 ppm; Vegetable, cucurbit, group 9 at 0.70 ppm; Vegetable, fruiting, group 8–10 at 0.20 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.01 ppm. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for afidopyropen including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with afidopyropen follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Afidopyropen is classified as category III for acute oral and acute dermal, and category IV for acute inhalation, primary eye irritation, and dermal irritation. The toxicology database for afidopyropen is complete. The target organs identified following exposure to afidopyropen are the liver, heart, brain, spleen, and reproductive organs of both sexes. The liver is a main target organ in both subchronic and chronic oral toxicity studies in all three-species tested (*i.e.,* mouse, rat, and dog).

There was no evidence of neurotoxicity seen in the subchronic neurotoxicity study in rats up to the highest dose tested. Afidopyropen caused neurotoxic effects in the acute neurotoxicity study; however, only at the limit dose of 2,000 milligrams/kilogram/day (mg/kg/day).

There is evidence of increased susceptibility following pre- and or post-natal exposure to afidopyropen. In a prenatal developmental study in rats, adverse effects in fetuses included an increased incidence of skeletal variations (lumbar ribs), increased ossification of the metatarsi, and an altered sex ratio (increased percentage of male pups); however, maternal effects were not observed up to the highest dose tested. In a second developmental study in rats, adverse fetal effects (increased incidence of skeletal variations and supernumerary ribs) occurred at a lower dose as compared to maternal effects (mortality in one animal). In a developmental study in rabbits, fetal developmental and maternal effects occurred at the same dose level. Effects included a decreased number of live fetuses, increased early resorptions and completely resorbed litters, as well as increased post-implantation loss. Fetuses also exhibited an altered sex ratio (increased percentage of male pups) at this dose level.

Quantitative susceptibility was also observed in two 2-generation rat studies. In the first study, no reproductive or parental effects were observed, while offspring effects were decreased absolute body weight in both sexes and F1 pup and litter deaths. In the second study, offspring effects included decreased absolute body weight and decreased spleen and thymus weights in both sexes. Reproductive effects included effects on ovary and uterus weight, decreased implantation sites, and an altered sex ratio (increased percentage of male pups). In this study, the parental and offspring effects occurred at the same dose level.

Afidopyropen did not display systemic effects in the 28-day dermal study, even at the limit dose of 1,000 mg/kg/day. There were no adverse effects observed in the route-specific dermal toxicity study up to the limit dose; however, there is evidence of increased susceptibility following pre- and/or post-natal exposure to afidopyropen. As a result, an oral point of departure was selected since the dermal toxicity study did not evaluate developmental or reproductive endpoints. A point of departure (POD) for dermal exposures (all durations) was selected from the 2-generation reproduction study in rats, this POD reflects the most sensitive endpoint in the database, and is protective of effects observed following subchronic exposure, including the fetal effects seen in the rat and rabbit developmental studies. This POD is also selected for inhalation exposures (all durations), and incidental oral and chronic dietary exposures. Chronic dietary was set using 2 co-critical studies (chronic dog study and 2-generation rat reproduction study). For acute dietary exposure, the POD is based on maternal and developmental effects (increased early resorptions of litters) observed in the rabbit developmental study and is applicable to females of childbearing age. An acute dietary POD was not identified for the general population because acute effects of concern for this population were not observed in the toxicology database.

In an immunotoxicity study in the rat, there were no adverse effects noted up to the highest dose tested.

Afidopyropen is classified as ''*Suggestive Evidence of Carcinogenic Potential*'' based on benign hepatocellular adenomas in male rats and uterine adenocarcinomas and combined adenocarcinomas and adenomas in female rats. There is insufficient evidence to support the petition's description of a uterine tumor mode-of action (MOA) in female rats. There is no concern for mutagenicity. Quantification of human cancer risk is not required. The chronic Reference Dose (RfD) will adequately account for all chronic toxicity, including carcinogenicity, which could result from exposure to afidopyropen.

More detailed information on the studies received and the nature of the adverse effects caused by afidopyropen as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document entitled ''Afidopyropen. Human Health Risk Assessment for Section 3 Requests for a

New Active Ingredient,'' dated April 4, 2018, by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and double-click on the hyperlink for the referenced document to view the referenced information on pages 16–23 of 112.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for afidopyropen used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR AFIDOPYROPEN FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute Dietary (General population)	An endpoint was not identified because effects of concern for this population were not observed in the toxicology database.		
Acute Dietary (Females 13+)	NOAEL = 16 mg/kg/day $UF_A = 10_X$ $UF_H = 10_X$ FQPA SF = 1_X	Acute RfD = 0.16 mg/kg/day aPAD = 0.16 mg/kg/day	Rabbit Prenatal Developmental Study: Maternal and developmental LOAEL = 32 mg/kg/day, based on increased early resorptions per litter.
Chronic Dietary (All populations including females 13+).	NOAEL = 8 mg/kg/day $UF_A = 10_X$ $UF_H = 10_X$ FQPA SF = 1_X	Chronic RfD = 0.08 mg/kg/day cPAD = 0.08 mg/kg/day	2 Co-critical Studies: Chronic Dog Study: LOAEL = 20 mg/kg/day, based on hyaline droplet deposition in hepatocytes and vacuolation of the white matter and neuropil of the cerebrum of male dogs. 2-Generation Rat Reproduction Study: Offspring LOAEL = 41 mg/kg/day, based on decreased absolute body weight, and decreased spleen and thymus weights of male rats.
Dermal Short-term (1 to 30 days)	NOAEL = 8 mg/kg/day Dermal absorption = 15% $UF_A = 10_X$ $UF_H = 10_X$ FQPA SF = 1_X	LOC for MOE = 100	2-Generation Rat Reproduction Study: Offspring LOAEL = 41 mg/kg/day, based on decreased absolute body weight, and decreased spleen and thymus weights of male rats.
Inhalation (All durations)	A point of departure (POD) used for inhalation exposures (all durations) was selected from the 2-generation rat reproduction study, is the most sensitive endpoint in the database, and is protective of effects observed following subchronic exposure, including the fetal effects seen in the rat and rabbit developmental studies.		
Cancer (Oral, dermal, inhalation) ..	Classification: ''*Suggestive Evidence of Carcinogenic Potential*''.		

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to afidopyropen, EPA considered exposure under the petitioned-for tolerances, and assessed dietary exposures from afidopyropen in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In estimating acute dietary (food and drinking water) exposure, EPA used food consumption information from the Dietary Exposure Evaluation Model-Food Commodity Intake Database (DEEM–FCID™, Version 3.16), which incorporates 2003–2008 consumption data from the United States Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). The acute dietary assessment was conducted using recommended tolerance-level residues and 100% crop treated assumptions. Empirical and default processing factors were used. Screening-level estimated drinking water concentrations (EDWCs)

were incorporated as point estimates, based on surface water modeling. The acute EDWC (7.1 ppb) was modeled using the Florida cabbage scenario.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used DEEM–FCID™, Version 3.16, which incorporates 2003–2008 consumption data from the USDA's NHANES/WWEIA. The chronic dietary assessment was conducted using recommended tolerance-level residues and 100% crop treated assumptions. Empirical and default processing factors were used. Screening-level EDWCs were incorporated as point estimates, based on surface water modeling. The chronic EDWC (3.9 ppb) was modeled using the California lettuce scenario.

iii. *Cancer.* As explained in unit III.A., quantification of risk using a non-linear approach (*i.e.,* a cPAD) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to afidopyropen.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use any anticipated residue or PCT information in the dietary assessment for afidopyropen. Tolerance-level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for afidopyropen in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of afidopyropen.

Afidopyropen may be transported to surface water and groundwater via runoff, leaching, or spray drift. Afidopyropen is a new chemical; therefore, at this point, no monitoring data are available. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling, taking into account data on the physical and fate characteristics of afidopyropen. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the latest version of the Pesticides in Water Calculator (PWC 1.52) and incorporating the Pesticide Root Zone Model for Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of afidopyropen for acute exposures are estimated to be 7.1 parts per billion (ppb) for surface water, and 3.8×10^{-4} ppb for ground water. For chronic exposures for non-cancer assessments, the EDWCs are estimated to be 3.9 ppb for surface water and 1.1×10^{-4} ppb for ground water.

Modeled estimates for drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 7.1 ppb was used to assess the contribution to drinking water. For chronic and cancer dietary risk assessment, the water concentration value of 3.9 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). The proposed use of afidopyropen on ornamentals can be in residential or recreational settings. All afidopyropen product labels require users to wear specific clothing and PPE (*i.e.,* gloves), and are assumed to be marketed for commercial use; therefore, a quantitative residential handler assessment was not conducted.

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

EPA has not found afidopyropen to share a common mechanism of toxicity with any other substances. Afidopyropen and another pesticide, aminocyclopyrachlor, both produce the common toxic metabolite CPCA; however, co-exposure to CPCA from both pesticides are unlikely to occur. Drinking water is the only expected exposure pathway for CPCA for either pesticide. The likelihood of having ground water residues of both afidopyropen and aminocyclopyrachlor at the EDWC predicted in the screening ground water modeling in the same location is miniscule for the following reasons: Ground water modeling assumes application of a chemical at the maximum rate, and the maximum number of applications, every year for up to 100 years, and because lateral flow of chemicals away from the application site is relatively slow, both chemicals would have to be applied in approximately the same location every year at the maximum application rates, at maximum numbers of applications for each, for the exposures to be additive, and this is not a feasible scenario. For the purposes of this tolerance action; therefore, EPA has assumed that afidopyropen does not have a common mechanism of toxicity with other substances or cause a cumulative effect as a result of the common metabolite with aminocyclopyrachlor. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Pre-natal and post-natal sensitivity.* There is evidence of increased susceptibility following pre- and or post-natal exposure to afidopyropen. In a prenatal developmental study in rats, adverse effects in fetuses included an increased incidence of lumbar ribs, increased ossification of the metatarsi, and an increased percentage of male pups; however, maternal effects were not observed up to the highest dose tested. In a second developmental study in rats, adverse fetal effects (increased incidence of skeletal variations and supernumerary ribs) occurred at a lower dose as compared to maternal effects (mortality in one animal). In a developmental study in rabbits, fetal developmental and maternal effects (increased early resorptions and completely resorbed litters) were observed.

Quantitative susceptibility was also observed in two 2-generation rat studies. In the first study, no reproductive or parental effects were observed, while offspring effects were decreased absolute body weight in both sexes and F1 pup and litter deaths. In the second study, offspring effects included decreased absolute body weight and decreased spleen and thymus weights in both sexes. Reproductive effects included effects on ovary and uterus

weight, decreased implantation sites, and an altered sex ratio (increased percentage of male pups). In this study, the parental and offspring effects occurred at the same dose level.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for all exposure scenarios. That decision is based on the following findings:

i. The toxicology database for afidopyropen is considered complete for evaluating and characterizing toxicity, assessing children's susceptibility under FQPA, and selecting endpoints for the exposure pathways of concern.

ii. Acute oral (gavage) and sub-chronic oral (dietary) neurotoxicity studies were conducted in rats. No evidence of specific neurotoxicity was seen in the subchronic neurotoxicity study up to the highest dose tested (369/438 mg/kg/day). Afidopyropen caused neurotoxic effects in the acute study; however, only at the limit dose.

Indications of neurotoxicity in mice and dogs were limited to vacuolation of white matter and/or spinal cord. The Agency has low concern because the nervous tissues in the mouse and dog studies were not perfused in-situ; therefore, the vacuolation that was observed is more likely an artifact of not preparing the tissues properly. The nervous tissue vacuolation seen in the subchronic dog and mice (subchronic and chronic) studies occurred at doses 7.5X–115X higher than the POD for the chronic dietary risk assessment. As a result, the effects are well-characterized with clearly established NOAEL/LOAEL values and the selected PODs are protective for the observed neurotoxic effects.

Based on the weight of the evidence and taking into consideration the PODs selected for risk assessment, a developmental neurotoxicity study is not required at this time. Clear NOAELs have been established for all lifestages, the selected PODs are protective of all pre- and post-natal toxicity observed throughout the database, and no specific neuropathological effects were noted. The adverse neuropathological effects observed in the subchronic mouse and dog and the chronic mouse studies occurred at doses 7.5X–115X higher than the lowest POD, and the rat (species typically used in the DNT) is less sensitive than dogs and mice to afidopyropen's putative neurotoxic effects.

iii. There is evidence of increased susceptibility following pre- and/or post-natal exposure to afidopyropen. In pre-natal developmental studies in rats, adverse fetal effects occurred at lower doses as compared to the maternal generation. In the first 2-generation study, offspring effects were observed while no adverse reproductive or parental effects occurred. In the second 2-generation study, offspring effects occurred at a lower dose as compared to the reproductive and parental effects. Clear NOAELs have been established for the developmental effects in rats and rabbits as well as the offspring effects in the two-generation reproduction studies. The NOAEL used for the chronic dietary risk assessment (8 mg/kg/day), based on effects observed in the 2-generation reproduction study in rats, is protective of all developmental and offspring effects seen in the database.

iv. There are no residual uncertainties identified in the exposure databases. The dietary assessment is based on high-end assumptions such as tolerance-equivalent residue levels of the parent compound in foods, 100% CT, default processing factors, and modeled, high-end estimates of residues in drinking water. All of the exposure estimates are based on high-end assumptions and are not likely to underestimate risk. In addition, the residential exposure assessment was conducted based on the Residential SOPs such that residential exposure and risk will not be underestimated.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water only to afidopyropen will occupy 3.6% of the aPAD for females, 13–49 years old. Since there was no acute endpoint identified for the general population, an acute dietary exposure assessment was not conducted for the U.S. general population and other population subgroups.

2. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). In estimating the short-term aggregate risk, EPA has aggregated the total short-term residential exposure and average dietary (food and water) exposure. The selected residential exposure scenarios for aggregation, adults and children (6 to <11 years old) contacting treated ornamentals, represent the worst-case risk estimates and are protective of all other lifestages and exposure scenarios. The short-term aggregate MOEs for adults (2,000) and children (2,500) are above the LOC (100), and are not of concern.

3. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because no intermediate-term exposure is anticipated, afidopyropen is not expected to pose an intermediate-term aggregate risk.

4. *Chronic risk.* Chronic aggregate risk assessments address exposures that are likely to occur continuously for greater than six months. Using the exposure assumptions discussed in this unit for chronic exposure, EPA has concluded that chronic dietary exposure to afidopyropen from food and water only will occupy 2.2% of the cPAD for the U.S. general population, and the population subgroup with the highest estimated risk was for children, 1–2 years old at 4.4% of the cPAD. Residential exposures to afidopyropen are not expected to occur on a chronic basis; therefore, the chronic aggregate risk estimates are equivalent to the chronic dietary risk estimates, and are below EPA's LOC.

5. *Aggregate cancer risk for U.S. population.* Afidopyropen is classified as having ''*Suggestive Evidence of Carcinogenic Potential.*'' The cRfD (cPAD) is considered to be protective of all chronic toxicity, including carcinogenicity, that could result from exposure to afidopyropen.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. general population, or to infants and children from aggregate exposure to afidopyropen residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Suitable tolerance enforcement methods for plants and livestock using liquid chromatography- mass spectrometer/mass spectrometer (LC–MS/MS) analyses were submitted for the analysis of afidopyropen. The reported

limit of quantitation (LOQ) of each method is 0.01 ppm for afidopyropen.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. Maximum residue limits (MRLs) for afidopyropen have not been established by Codex.

For this pesticide, the U.S. EPA and Health Canada's Pest Management Regulatory Agency (PMRA) have conducted a joint review of the available data. That review used the Organization for Economic Co-operation and Development (OECD) calculation procedures to determine the appropriate MRLs. Therefore, the EPA tolerance levels are harmonized with MRLs to be established by Health Canada's PMRA.

C. Revisions to Petitioned-For Tolerances

Several of the tolerances requested by the petitioner are different from those established in this rule. EPA's tolerance levels are expressed to provide sufficient precision for enforcement purposes, and this may include the addition of trailing zeros (such as 0.30 ppm rather than 0.3 ppm). This is to avoid the situation where rounding of an observed violative residue to the level of precision of the tolerance expression would result in a residue considered non-violative (such as 0.34 ppm being rounded to 0.3 ppm). This revision has been made for the following: Brassica, head and stem, group 5–16; Brassica, leafy greens, subgroup 4–16B; Cotton, gin byproducts; Leafy Greens, subgroup 4–16A; Leaf petiole vegetable subgroup 22B; and Vegetable, cucurbit, group 9.

For citrus oil and cotton, undelinted seed, the levels differ because of differences in rounding the values calculated from the residue data. The pome fruit tolerance is different because of differences in the MRL calculation for pear. Two pear field trials were concluded to be replicates for calculation and the petitioner also used an additional residue value which is believed to be a transcription error. A tolerance for the processed food prunes is not needed because residues are not expected to concentrate in prunes. For fruiting vegetables, these differences are attributable to the petitioner having combined both the bell and non-bell pepper data together for calculation. In addition, the petitioner did not request a tolerance for the dried tomato processed commodity, but EPA has concluded that the tolerance for the crop group will not be adequate to cover that commodity. Finally, regarding ''Soybean, aspirated grain fractions,'' the tolerance level requested by the petitioner was not consistent with data submitted with the petition. EPA reviewed the requested use pattern and supporting data, corrected the proposed commodity definition, and has decided to establish a tolerance for commodity ''Grain, aspirated fractions.''

V. Conclusion

Therefore, tolerances are established for residues of afidopyropen, [(3*S,*4*R,*4a*R,*6*S,*6a*S,*12*R,*12a*S,*12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H,*11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate, including its metabolites and degradates, in or on Almond, hulls at 0.15 ppm; Apple, wet pomace at 0.05 ppm; Brassica, head and stem, group 5–16 at 0.50 ppm; Brassica, leafy greens, subgroup 4–16B at 5.0 ppm; Citrus, oil at 0.40 ppm; Cotton, gin byproducts at 2.0 ppm; Cotton, undelinted seed at 0.08 ppm; Fruit, citrus, group 10–10 at 0.15 ppm; Fruit, pome, group 11–10 at 0.02 ppm; Fruit, stone, group 12–12 at 0.03 ppm; Grain, aspirated fractions at 0.15 ppm; Leafy Greens, subgroup 4–16A at 2.0 ppm; Leaf petiole vegetable subgroup 22B at 3.0 ppm; Nut, tree, group 14–12 at 0.01 ppm; Soybean, seed at 0.01 ppm; Tomato, dried at 0.50 ppm; Vegetable, cucurbit, group 9 at 0.70 ppm; Vegetable, fruiting, group 8–10 at 0.20 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.01 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 5, 2018.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.700 to subpart C to read as follows:

§ 180.700 Afidopyropen; Tolerances for residues.

(a) *General.* Tolerances are established for residues of afidopyropen, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only afidopyropen, [(3*S,*4*R,*4a*R,*6*S,*6a*S,*12*R,*12a*S,*12b*S*)-3-[(cyclopropylcarbonyl)oxy]-1,3,4,4a,5,6,6a,12,12a,12b-decahydro-6,12-dihydroxy-4,6a,12b-trimethyl-11-oxo-9-(3-pyridinyl)-2*H,*11*H*-naphtho[2,1-b]pyrano[3,4-e]pyran-4-yl]methyl cyclopropanecarboxylate, in or on the following food commodities:

Commodity	Parts per million
Almond, hulls	0.15
Apple, wet pomace	0.05
Brassica, head and stem, group 5–16	0.50
Brassica, leafy greens, subgroup 4–16B	5.0
Citrus, oil	0.40
Cotton, gin byproducts	2.0
Cotton, undelinted seed	0.08
Fruit, citrus, group 10–10	0.15
Fruit, pome, group 11–10	0.02
Fruit, stone, group 12–12	0.03
Grain, aspirated fractions	0.15
Leafy Greens, subgroup 4–16A	2.0
Leaf petiole vegetable subgroup 22B	3.0
Nut, tree, group 14–12	0.01
Soybean, seed	0.01
Tomato, dried	0.50
Vegetable, cucurbit, group 9	0.70
Vegetable, fruiting, group 8–10	0.20
Vegetable, tuberous and corm, subgroup 1C	0.01

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2018–19951 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0702; FRL–9983–18]

Bacteriophage Active Against Erwinia amylovora; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of lytic bacteriophage active against *Erwinia amylovora* that are produced in *Erwinia amylovora* in or on apple and pear, when used in accordance with label directions and good agricultural practices. OmniLytics, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of bacteriophage active against *Erwinia amylovora* in or on apple and pear under FFDCA.

DATES: This regulation is effective September 13, 2018. Objections and requests for hearings must be received on or before November 13, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0702, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0702 in the subject line on

the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 13, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0702, by one of the following methods:

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

II. Background

In the **Federal Register** of March 6, 2018 (83 FR 9471) (FRL–9973–27), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F8573) by OmniLytics, Inc., 9100 South 500 West, Sandy, UT 84070. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the bactericide bacteriophage active against *Erwinia amylovora* in or on apple and pear. That document referenced a summary of the petition prepared by the petitioner OmniLytics, Inc. and available in the docket via *http://www.regulations.gov.* There were no comments regarding this exemption received in response to the notice of filing.

Based upon review of data and other information supporting the petition, EPA is granting a tolerance exemption that differs slightly from what the petition requested. The reason for this difference is explained in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on bacteriophage active against *Erwinia amylovora* and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for Bacteriophage Active Against *Erwinia amylovora.*'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that bacteriophage active against *Erwinia amylovora* are not anticipated to be toxic, pathogenic, or infective via any route of exposure. Furthermore, humans, including infants and children, have been exposed to bacteriophage through food and water, where they are commonly found, with no known adverse effects. Although there may be some exposure to residues of bacteriophage active against *Erwinia amylovora* that are used on apple and pear in accordance with label directions and good agricultural practices, there is a lack of concern due to the lack of potential for adverse effects. EPA also determined that retention of the Food Quality Protection Act (FQPA) safety factor was not necessary as part of the qualitative assessment conducted for bacteriophage active against *Erwinia amylovora.*

Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of bacteriophage active against *Erwinia amylovora.* Therefore, an exemption from the requirement of a tolerance is established for residues of lytic bacteriophage active against *Erwinia amylovora* that are produced in *Erwinia amylovora* in or on apple and pear, when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Differences Between Petition and Tolerance Exemption Rule

In its petition, the petitioner requested generally that EPA issue an exemption from the requirement of a tolerance for residues of bacteriophage active against *Erwinia amylovora* in or on apple and pear. The petitioner's supporting materials indicated that the actual pesticide that would be used would be safe because the bacteriophage were lytic and were produced in *Erwinia amylovora.* EPA believes that only bacteriophage that have these same characteristics as the organism tested would be safe and should be exempt from the requirement of a tolerance. Therefore, EPA is issuing a tolerance exemption that differs slightly from the petition by limiting the exemption to residues of bacteriophage that possess the same characteristics as the bacteriophage that were tested to support this exemption.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d)

in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 4, 2018.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1359 to subpart D to read as follows:

§ 180.1359 Bacteriophage active against *Erwinia amylovora;* exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of lytic bacteriophage active against *Erwinia amylovora* that are produced in *Erwinia amylovora* in or on apple and pear, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2018–19954 Filed 9–12–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0703; FRL–9983–10]

Bacteriophage Active Against Xanthomonas citri subsp. citri; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of lytic bacteriophage active against *Xanthomonas citri* subsp. *citri* that are produced in *Xanthomonas citri* subsp. *citri* in or on food commodities included in the fruit, citrus groups 10 and 10–10, when used in accordance with label directions and good agricultural practices. OmniLytics, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of bacteriophage active against *Xanthomonas citri* subsp. *citri* in or on food commodities of the fruit, citrus groups 10 and 10–10 under FFDCA.

DATES: This regulation is effective September 13, 2018. Objections and requests for hearings must be received on or before November 13, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0703, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P),

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0703 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 13, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0703, by one of the following methods:

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

II. Background

In the **Federal Register** of March 21, 2018 (83 FR 12311) (FRL–9974–76), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F8574) by OmniLytics, Inc., 9100 South 500 West, Sandy, UT 84070. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the bactericide bacteriophage active against *Xanthomonas citri* subsp. *citri* in or on citrus fruit, including orange, grapefruit, pummelo, mandarin, lemon, lime, tangerine, tangelo, and kumquat. That document referenced a summary of the petition prepared by the petitioner OmniLytics, Inc. and available in the docket via *http://www.regulations.gov.* There were no comments regarding this exemption received in response to the notice of filing.

Based upon review of data and other information supporting the petition, EPA is granting a tolerance exemption that differs slightly from what the petition requested. The reason for this difference is explained in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on bacteriophage active against *Xanthomonas citri* subsp. *citri* and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for Bacteriophage Active Against *Xanthomonas citri* subsp. *citri.*'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES.**

The available data demonstrated that bacteriophage active against *Xanthomonas citri* subsp. *citri* are not anticipated to be toxic, pathogenic, or infective via any route of exposure. Furthermore, humans, including infants and children, have been exposed to bacteriophage through food and water, where they are commonly found, with no known adverse effects. Although there may be some exposure to residues of bacteriophage active against *Xanthomonas citri* subsp. *citri* that are used on citrus fruit in accordance with label directions and good agricultural practices, there is a lack of concern due to the lack of potential for adverse effects. EPA also determined that retention of the Food Quality Protection Act (FQPA) safety factor was not

necessary as part of the qualitative assessment conducted for bacteriophage active against *Xanthomonas citri* subsp. *citri.*

Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of bacteriophage active against *Xanthomonas citri* subsp. *citri.* Therefore, an exemption from the requirement of a tolerance is established for residues of lytic bacteriophage active against *Xanthomonas citri* subsp. *citri* that are produced in *Xanthomonas citri* subsp. *citri* in or on food commodities included in the fruit, citrus groups 10 and 10–10, when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Differences Between Petition and Tolerance Exemption Rule

In its petition, the petitioner requested generally that EPA issue an exemption from the requirement of a tolerance for residues of bacteriophage active against *Xanthomonas citri* subsp. *citri* in or on citrus fruit, including orange, grapefruit, pummelo, mandarin, lemon, lime, tangerine, tangelo, and kumquat. The petitioner's supporting materials indicated that the actual pesticide that would be used would be safe because the bacteriophage was lytic and were produced in *Xanthomonas citri* subsp. *citri.* EPA believes that only bacteriophage that have these same characteristics as the organism tested would be safe and should be exempt from the requirement of a tolerance. Therefore, EPA is issuing a tolerance exemption that differs slightly from the petition by limiting the exemption to residues of the bacteriophage that possess the same characteristics as the bacteriophage that were tested to support this exemption.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 4, 2018.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1360 to subpart D to read as follows:

§ 180.1360 Bacteriophage active against Xanthomonas citri subsp. citri; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of lytic bacteriophage active against *Xanthomonas citri* subsp. *citri* that are produced in *Xanthomonas citri* subsp. *citri* in or on food commodities included in the fruit, citrus groups 10 and 10–10, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2018–19958 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0525; FRL–9983–31]

Pepino Mosaic Virus, Strain CH2, Isolate 1906; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a

tolerance for residues of *Pepino mosaic virus,* strain CH2, isolate 1906 in or on tomato when this pesticide chemical is used in accordance with label directions and good agricultural practices. Interregional Research Project Number 4 submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from a requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Pepino mosaic virus,* strain CH2, isolate 1906 in or on tomato under FFDCA.

DATES: This regulation is effective September 13, 2018. Objections and requests for hearings must be received on or before November 13, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0525, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0525 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 13, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0525, by one of the following methods:

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

II. Background

In the **Federal Register** of December 15, 2017 (82 FR 59604) (FRL–9970–50), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7E8567) by Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the microbial pesticide *Pepino mosaic virus,* strain CH2, isolate 1906 in or on tomato. That document referenced a summary of the petition prepared by the petitioner IR–4 and available in the docket via *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and

other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Pepino mosaic virus,* strain CH2, isolate 1906 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for *Pepino mosaic virus,* strain CH2, isolate 1906'' (Safety Determination). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that in regard to humans *Pepino mosaic virus,* strain CH2, isolate 1906 is not likely to be toxic or pathogenic, is not infective, and is not able to replicate in human cells. Furthermore, humans, including infants and children, continuously consume plant viruses, including *Pepino mosaic virus,* strain CH2, isolate 1906, due to the ubiquitous nature of these viruses in plants and fruits, and no cases have been documented of any plant virus causing toxicity or diseases in humans or animals. Although there may be some exposure to residues of *Pepino mosaic virus,* strain CH2, isolate 1906 that are used on tomato in accordance with label directions and good agricultural practices, such exposure is unlikely to cause any adverse effects. EPA also determined in the Safety Determination that retention of the Food Quality Protection Act (FQPA) safety factor was not necessary as part of the qualitative assessment conducted for *Pepino mosaic virus,* strain CH2, isolate 1906.

Based upon its evaluation in the Safety Determination, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Pepino mosaic virus,* strain CH2, isolate 1906. Therefore, an exemption from the requirement of a tolerance is established for residues of *Pepino mosaic virus,* strain CH2, isolate 1906 in or on tomato when this pesticide chemical is used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Response to Comments

Three comments were received in response to the notice of filing. EPA reviewed the comments and determined that they are irrelevant to the tolerance exemption in this action.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: September 6, 2018.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1361 to subpart D to read as follows:

§ 180.1361 *Pepino mosaic virus,* strain CH2, isolate 1906; exemption from the requirement of a tolerance.

Residues of *Pepino mosaic virus,* strain CH2, isolate 1906 are exempt from the requirement of a tolerance in or on tomato when this pesticide chemical is used in accordance with label directions and good agricultural practices.

[FR Doc. 2018–19959 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2015–0575, EPA–HQ–OLEM–2017–0605, 0608 and 0610, EPA–HQ–OLEM–2018–0252 and 0254; FRL–9983–69–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''the EPA'' or ''the agency'') in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds five sites to the General Superfund section of the NPL, clarifies a site name, and withdraws a previous addition to the NPL.

DATES: The document is effective on October 15, 2018.

ADDRESSES: Contact information for the EPA Headquarters:

• Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the regional dockets is as follows:

• Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1413.

• Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.

• Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814–3355.

• Cathy Amoroso, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mailcode 9T25, Atlanta, GA 30303; 404/562–8637.

• Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.

• Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.

• Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mailcode SUPRSTAR, Lenexa, KS 66219; 913/551–7956.

• Victor Ketellapper, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6578.

• Sharon Bowen, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD 6–1, San Francisco, CA 94105; 415/947–4250.

• Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW, Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened

releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the ''General Superfund section'') and one of sites that are owned or operated by other federal agencies (the ''Federal Facilities section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (''HRS'') score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760), a subsurface intrusion component was added to the HRS to enable the EPA to consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: Ground water, surface water, soil exposure and subsurface intrusion, and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with a permanent remedy, taken instead of or in addition to removal actions'' (40 CFR 300.5).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL ''does not imply that monies will be expended.'' The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the ''Jones Co. Plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely

may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation (''RI'') ''is a process undertaken . . . to determine the nature and extent of the problem presented by the release'' as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study (''FS'') (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA's internet site at *https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number*.

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9*.

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing*.

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's website at *http://semspub.epa.gov/src/document/HQ/174024*.

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at the EPA headquarters and in the EPA regional offices.

An electronic version of the public docket is available through *https://www.regulations.gov* (see table below for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified in section II.D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Broadway Street Corridor Groundwater Contamination	Anderson, IN	EPA–HQ–OLEM–2017–0605
Rockwell International Wheel & Trim	Grenada, MS	EPA–HQ–OLEM–2017–0608
Donnelsville Contaminated Aquifer	Donnelsville, OH	EPA–HQ–OLEM–2018–0252
Southside Chattanooga Lead	Chattanooga, TN	EPA–HQ–OLEM–2017–0610
Delfasco Forge	Grand Prairie, TX	EPA–HQ–OLEM–2018–0254

B. What documents are available for review at the EPA Headquarters docket?

The headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score and a list of documents referenced in the documentation record for each site.

C. What documents are available for review at the EPA regional dockets?

The EPA regional dockets contain all the information in the headquarters docket, plus the actual reference documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the regional dockets.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the regional dockets for hours. For addresses for the headquarters and regional dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the internet at *https://www.epa.gov/superfund/national-priorities-list-npl-sites-site-name* or by contacting the Superfund docket (see contact information in the beginning portion of this document).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following five sites to the General Superfund section of the NPL. These sites are being added to the NPL based on HRS score.

General Superfund section:

State	Site name	City/county
IN	Broadway Street Corridor Groundwater Contamination	Anderson.
MS	Rockwell International Wheel & Trim	Grenada.
OH	Donnelsville Contaminated Aquifer	Donnelsville.
TN	Southside Chattanooga Lead	Chattanooga.
TX	Delfasco Forge	Grand Prairie.

B. What did the EPA do with the public comments it received?

The EPA reviewed all comments received on the sites in this rule and responded to all relevant comments. The EPA is adding five sites to the NPL in this final rule. Three sites were proposed for NPL addition on January 18, 2018 (83 FR 2576). The sites are: Broadway Street Corridor Groundwater Contamination in Anderson, IN; Rockwell International Wheel & Trim in Grenada, MS; and Southside Chattanooga Lead in Chattanooga, TN. Two sites were proposed for NPL addition on May 17, 2018 (83 FR 22918). Those sites are: Donnelsville Contaminated Aquifer in Donnelsville, OH; and Delfasco Forge in Grand Prairie, TX.

Comments on Rockwell International Wheel & Trim, Southside Chattanooga Lead and Broadway Street Corridor Groundwater Contamination are being addressed in response to comment support documents available in the public docket concurrently with this rule. To view public comments on these sites, as well as EPA's response, please refer to the support documents filed in connection with this rule.

The EPA received no comments on the Delfasco Forge site.

For the Donnelsville Contaminated Aquifer site, the EPA received one comment from community members in support of NPL listing and one comment unrelated to NPL listing.

C. Site Name Clarification

On January 18, 2018 (83 FR 2576) the EPA proposed to add the ''Southside Chattanooga Lead Site'' site to the NPL. The EPA is dropping ''Site'' from the site name and henceforth referring to it as Southside Chattanooga Lead.

D. Vacatur of Previous NPL Listing

EPA placed the West Vermont Drinking Water Contamination site located in Indianapolis, Indiana on the NPL on September 9, 2016 (81 FR 62397). On May 18, 2018, the U.S. Court of Appeals for the District of Columbia Circuit vacated the 2016 rule which placed the site on the NPL (*Genuine Parts Co.* v. *EPA,* No. 16–1416 (DC Cir. 2018)). Consequently, EPA has withdrawn the West Vermont Drinking Water Contamination site from the NPL.

IV. 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 Regulation 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 an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

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. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

F. Executive Order 13132: Federalism

This final rule 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. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health 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 this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

I. Executive Order 13211: Actions 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 the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

L. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 6, 2018.

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

■ 2. Table 1 of appendix B to part 300 is amended as follows:

■ a. Under Indiana:

■ i. By adding the entry ''Broadway Street Corridor Groundwater Contamination'' in alphabetical order.

■ ii. By removing the entry ''West Vermont Drinking Water''.

■ b. By adding the entries for ''Rockwell International Wheel & Trim'', ''Donnelsville Contaminated Aquifer'', ''Southside Chattanooga Lead'', and ''Delfasco Forge'' in alphabetical order by state.

The additions read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
*	* * * *	* * *	*
IN	Broadway Street Corridor Groundwater Contamination	Anderson	
*	* * * *	* * *	*
MS	Rockwell International Wheel & Trim	Grenada	
*	* * * *	* * *	*
OH	Donnelsville Contaminated Aquifer	Donnelsville	
*	* * * *	* * *	*
TN	Southside Chattanooga Lead	Chattanooga	
*	* * * *	* * *	*
TX	Delfasco Forge	Grand Prairie	
*	* * * *	* * *	*

(a) A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

[FR Doc. 2018–19878 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–1

[Notice–MA–2018–08; Docket No. 2018–0002, Sequence No. 20]

Federal Travel Regulation: Contract City-Pair Business-Class Air Accommodations

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notification of Federal Travel Regulation (FTR) Bulletin 18–08, Contract City-Pair Business-Class Air Accommodations.

SUMMARY: GSA is notifying agencies that Federal civilian employees of an agency as defined in its regulations, if authorized to travel via business-class air accommodations, must use the business-class city-pair fare (coded as ''—CB'') where awarded for the route(s) listed on the travel authorization. The information outlined in an FTR bulletin will provide clarity and promote consistency across the Government.

DATES: FTR Bulletin 18–08 is available September 13, 2018.

ADDRESSES: The bulletin is located at *www.gsa.gov/ftr* under the ''FTR & Related Files'' tab.

FOR FURTHER INFORMATION CONTACT: For clarification of content, please contact Mr. Cy Greenidge, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202–219–2349, or by email at *travelpolicy@gsa.gov.* Please cite Notice of FTR Bulletin 18–08.

SUPPLEMENTARY INFORMATION: Federal civilian employees of an agency as defined in FTR § 301–1.1, if authorized to travel via business-class air accommodations, must use the business-class city-pair fare (coded as ''—CB'') where awarded for the route(s) listed on the travel authorization. The Federal traveler must use this fare or have an authorized exception to mandatory use of a contract city-pair fare per the FTR. The information outlined in FTR Bulletin 18–08 will provide clarity and promote consistency across the Government. This bulletin is located at *www.gsa.gov/ftr* under the ''FTR & Related Files'' tab.

Dated: September 6, 2018.

Jessica Salmoiraghi,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2018–19884 Filed 9–12–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 831, 833, 852 and 871

RIN 2900–AQ02

VA Acquisition Regulation: Contract Cost Principles and Procedures; Protests, Disputes and Appeals

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, we will publish them in the **Federal Register**. In particular, this rulemaking revises VAAR concerning Contract Cost Principles and Procedures and Protests, Disputes and Appeals.

DATES: This rule is effective on October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: On April 6, 2018, VA published a proposed rule in the **Federal Register** (83 FR 14826), which announced VA's intent to amend regulations for VAAR Case RIN 2900–AQ02 (Parts 831 and 833). In particular, this final rule revises VAAR part 831 to clarify the cost principles under the chapter 31 program and to apply those principles to both fixed-price and cost reimbursement contracts with educational institutions, as well as those with commercial and non-profit organizations. It revises VAAR part 833 to update information for where an

interested party may protest to the contracting officer; provides for independent review a level above the contracting officer; and clarifies how interested parties may appeal a contracting officer's decision on a protest. Other revisions include clarification of the types of protests that may be dismissed by VA without consideration of the merits, or may be forwarded to another agency for appropriate action; states that certain challenges of the legal status of a firm as a regular dealer or manufacturer is determined solely by the procuring agency, the Small Business Administration (SBA) if a small business is involved, and the Secretary of Labor; updates two clauses in part 852 related to protests; clarifies a contractor's obligation to continue performance under a dispute; and, revises a definition of a term in VAAR part 871 to comport with the same term used in VAAR part 831.

VA provided a 60-day comment period for the public to respond to the proposed rule. The comment period for the proposed rule ended on June 5, 2018 and VA received no comments. This document adopts as a final rule the proposed rule published in the **Federal Register** on April 6, 2018, with minor stylistic and grammatical edits. This final rule has **Federal Register** administrative format changes in the amendatory text which make no substantive text changes at the affected sections.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal Governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal Governments or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will generally be small business neutral. The overall impact of the rule will be of benefit to small businesses owned by Veterans or service-disabled Veterans as the VAAR is being updated to remove extraneous procedural information that applies only to VA's internal operating procedures. VA is merely adding existing and current regulatory requirements to the VAAR and removing any guidance that is applicable only to VA's internal operation processes or procedures. VA estimates no cost impact to individual businesses will result from these rule updates. This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the final rule will not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this regulatory action is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866, 13563 and 13771

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 12866, Regulatory Planning and Review, defines ''significant regulatory action'' to mean any regulatory action that is likely to result in a rule that may: ''(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not to be a significant regulatory action under E.O. 12866 because it does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 Through Fiscal Year to Date. This final rule is not subject to the requirements of E.O. 13771 because this final rule is expected to result in no more than *de minimis* costs.

List of Subjects

48 CFR Part 831

Accounting, Government procurement.

48 CFR Part 833

Administrative practice and procedure, Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 871

Government procurement, Loan programs—social programs, Loan programs—Veterans, Reporting and recordkeeping requirements, Vocational rehabilitation.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on August 24, 2018, for publication.

Dated: August 28, 2018.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 48 CFR parts 831, 833, 852 and 871 as follows:

■ 1. Part 831 is revised to read as follows:

PART 831—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 831.70—Contract Cost Principles and Procedures for Veterans Services

Authority: 38 U.S.C. chapter 31; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C 1702; and 48 CFR 1.301–1.304.

Subpart 831.70—Contract Cost Principles and Procedures for Veterans Services

831.7000 Scope of subpart.

This subpart contains general cost principles and procedures for the determination and allowance of costs or negotiation of prices under cost reimbursement or fixed-price contracts for providing vocational rehabilitation, education, and training to eligible Veterans under 38 U.S.C. chapter 31, (referred to as a ''chapter 31 program''). This subpart applies to contracts with educational institutions as well as to contracts with commercial and non-profit organizations.

831.7000–1 Definitions.

Chapter 31 refers to the vocational rehabilitation and employment (VR&E) program that provides training and rehabilitation for Veterans with service-connected disabilities under chapter 31 of Title 38 U.S.C.

Consumable instructional supplies means those supplies which are required for instruction in the classroom, shop school, and laboratory of an educational institution, which are consumed, destroyed, or expended by either the student, instructor or both in the process of use, and which have to be replaced at frequent intervals without adding to the value of the institution's physical property.

Similarly circumstanced non-Veteran student means a student in equal or like situations as a person who is neither receiving educational or training benefits under chapter 31 or chapter 33 of Title 38 U.S.C. or the savings provisions of section 12(a) of Public Law 85–857, nor having all or any part of tuition fees or other charges paid by the educational institution.

Work adjustment training means a specialized structure program that is facility or community based and designated to assist an individual in acquiring or improving work skills, work behaviors, work tolerance, interpersonal skills or work ethics.

831.7001 Allowable costs and negotiated prices under vocational rehabilitation and education contracts.

831.7001–1 Tuition.

(a) Tuition and enrollment fees shall be paid at the institution's customary amount that—

(1) Does not exceed the tuition charged to similarly circumstanced non-Veteran students; and

(2) Is equal to the lowest price offered or published for the entire course, semester, quarter, or term.

(b) The cost of the Veteran student's tuition and fees under a contract shall be offset by—

(1) Any amount of tuition and fees that are waived by a State or other government authority; or

(2) Any amounts the Veteran student receives from a fellowship, scholarship, grant-in-aid, assistantship, or similar award that limits its use to payment of tuition, fees, or other charges that VA normally pays as part of a chapter 31 program.

(c) VA will not pay tuition or incidental fees to institutions or establishments furnishing apprentice or on-the-job training. VA may elect to pay charges or expenses that fall into either of the following categories:

(1) Charges customarily made by a nonprofit workshop or similar establishment for providing work adjustment training to similarly circumstanced non-Veteran students even if the trainee receives an incentive wage as part of the training.

(2) Training expenses incurred by an employer who provides on-the-job training following rehabilitation to the point of employability when VA determines that the additional training is necessary.

831.7001–2 Special services or courses.

Special services or courses are those services or courses that VA requests that are supplementary to those the institution customarily provides for similarly circumstanced non-Veteran students, and that the contracting officer considers them to be necessary for the rehabilitation of the trainee. VA will negotiate the costs/prices of special services or courses prior to ordering them.

831.7001–3 Books, supplies, and equipment required to be personally owned.

(a) *Reimbursement for books, supplies, and equipment.* VA will provide reimbursement for books, equipment, or other supplies of the same variety, quality, or amount that all students taking the same course or courses are customarily required to own personally. VA will provide reimbursement for items that the institution does not specifically require for pursuit of the course if VA determines that such items are needed because of the demands of the course, general possession by other students, and the disadvantage imposed on a Veteran student by not having the item.

(b) *Partial payment agreements.* Agreements in which VA would pay the institution a partial payment with the remainder to be paid by the Veteran student are not authorized.

(c) *Thesis expenses.* The institution's costs in connection with a Veteran student's thesis are considered supplies and are therefore authorized for reimbursement if the Veteran student's committee chairman, major professor, department head, or appropriate dean certifies that the thesis is a course requirement and the expenses are required to complete the thesis. These expenses may include research expenses, typing, printing, microfilming, or otherwise reproducing the required number of copies.

(d) *Reimbursement for books, supplies, and equipment.* Books, supplies, and equipment that the institution purchases specifically for trainees will be reimbursed at the net cost to the institution. The VA shall reimburse the institution for books, supplies, and equipment when these items are—

(1) Issued to students from its own bookstore or supply store;

(2) Issued to students from retail stores or other non-institutionally owned establishments not owned by the contractor/institution but arranged or designated by them in cooperation with VA; or

(3) Rented or leased books, supplies and equipment and are issued to students for survey classes when it is customary that students are not required to own the books.

(e) *Handling charges.* VA shall reimburse the institution for any handling charges not to exceed more than 10 percent of the allowable charge for the books, equipment or other supplies unless—

(1) The tuition covers the charges for supplies or rentals or a stipulated fee is assessed to all students; or

(2) The handling charge is for Government-owned books that the contractor procures from the Library of Congress.

831.7001–4 Medical services and hospital care.

(a) VA may pay the customary student health fee when payment of the fee is required for similarly circumstanced non-Veteran students. If payment of the fee is not required for similarly circumstanced non-Veteran students, payment may be made if VA determines that payment is in the best interest of the Veteran student and the Government.

(b) When the customary Veteran student's health fee does not cover medical services or hospital care, but these medical services are available in an institution-operated facility or with doctors and hospitals in the immediate area through a prior arrangement, VA may provide reimbursement for these services in a contract for the services if—

(1) An arrangement is necessary to provide timely medical services for Veteran-students attending the facility under provisions of chapter 31; and

(2) The general rates established for medical services do not exceed the rates established by VA.

(c) VA may reimburse a rehabilitation facility for incidental medical services provided during a Veteran student's program at the facility.

831.7001–5 Consumable instructional supplies.

(a) VA will provide reimbursement for consumable instructional supplies that the institution requires for the instruction of all students, Veteran or non-Veteran students, pursuing the same or comparable course or courses when—

(1) The supplies are entirely consumed in the fabrication of a required project; or

(2) The supplies are not consumed but are of such a nature that they cannot be salvaged from the end product for reuse by disassembling or dismantling the end product.

(b) VA will not provide reimbursement for consumable instructional supplies if any of the following apply:

(1) The supplies can be salvaged for reuse.

(2) The supplies are used in a project that the student has elected as an alternate class project to produce an end product of greater value than that normally required to learn the skills of the occupation, and the end product will become the Veteran's property upon completion.

(3) The supplies are used in a project that the institution has selected to provide the student with a more elaborate end product than is required to provide adequate instruction as an inducement to the Veteran student to elect a particular course of study.

(4) The sale value of the end product is equal to or greater than the cost of supplies plus assembly, and the supplies have not been reasonably used so that the supplies are not readily salvaged from the end product to be reused for instructional purposes.

(5) The end product is of permanent value and retained by the institution.

(6) A third party loans the articles or equipment for repair or improvement and the third party would otherwise pay a commercial price for the repair or improvement.

(7) The number of projects resulting in end products exceeds the number normally required to teach the recognized job operations and processes of the occupation stipulated in the approved course of study.

(8) The cost of supplies is included in the charge for tuition or as a fee designated for such purpose.

831.7001–6 Reimbursement for other supplies and services.

VA will provide reimbursement for other services and assistance that may be authorized under applicable provisions of 38 U.S.C. chapter 31 regulations, including, but not limited to, employment and self-employment services, initial and extended evaluation services, and independent living services.

■ 2. Part 833 is revised to read as follows:

PART 833—PROTESTS, DISPUTES, AND APPEALS

Sec.

Subpart 833.1—Protests

Subpart 833.2—Disputes and Appeals

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; 41 U.S.C. chapter 71; and 48 CFR 1.301–1.304.

Subpart 833.1—Protests

833.103–70 Protests to VA.

(a) *Agency protests.* Pursuant to FAR 33.103(d)(4), an interested party may protest to the contracting officer or, as an alternative, may request an independent review at a level above the contracting officer as provided in this section. An interested party may also appeal to VA a contracting officer's decision on a protest.

(1) *Protests to the contracting officer.* Protests to the contracting officer shall be in writing and shall be addressed where the offer/bid is to be submitted or as indicated in the solicitation.

(2) *Independent review or appeal of a contracting officer decision—protest filed directly with the agency.* (i) Protests requesting an independent review a level above the contracting officer, and appeals within VA above the level of the contracting officer, shall be addressed to: Executive Director, Office of Acquisition and Logistics, Risk Management and Compliance Service (RMCS), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

(ii) The protest and pertinent documents shall be mailed to the address in paragraph (a)(2)(i) of this section or sent electronically to: *EDProtests@va.gov.*

(3) An independent review of a protest filed pursuant to paragraph (a)(2) of this section will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

(b) *Agency actions on specific types of protests.* The following types of protests may be dismissed by VA without consideration of the merits or may be forwarded to another agency for appropriate action:

(1) *Contract administration.* Disputes between a contractor and VA are resolved under the disputes clause see the Dispute statute, 41 U.S.C. chapter 71.

(2) *Small business size standards and standard industrial classification.* Challenges of established size standards, ownership and control or the size status of particular firm, and challenges of the selected standard industrial classification are for review solely by the Small Business Administration (SBA) (see 15 U.S.C. 637(b)(6); 13 CFR 121.1002). Pursuant to Public Law 114–328, SBA will also hear cases related to size, status, and ownership and control challenges under the VA Veterans First Contracting Program (see 38 U.S.C. 8127(f)(8)).

(3) *Small business certificate of competency program.* A protest made under section 8(b)(7) of the Small Business Act, or in regard to any issuance of a certificate of competency or refusal to issue a certificate under that section, is not reviewed in

accordance with bid protest procedures unless there is a showing of possible fraud or bad faith on the part of Government officials.

(4) *Protests under section 8(a) of the Small Business Act.* The decision to place or not to place a procurement under the 8(a) program is not subject to review unless there is a showing of possible fraud or bad faith on the part of Government officials or that regulations may have been violated (see 15 U.S.C. 637(a)).

(5) *Affirmative determination of responsibility by the contracting officer.* An affirmative determination of responsibility will not be reviewed unless there is a showing that such determination was made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation were not met.

(6) *Contracts for materials, supplies, articles, and equipment exceeding $15,000.* Challenges concerning the legal status of a firm as a regular dealer or manufacturer within the meaning of 41 U.S.C. chapter 65 are determined solely by the procuring agency, the SBA (if a small business is involved), and the Secretary of Labor (see FAR subpart 22.6).

(7) *Subcontractor protests.* The contracting agency will not consider subcontractor protests except where VA determines it is in the interest of the Government.

(8) *Judicial proceedings.* The contracting agency will not consider protests where the matter involved is the subject of litigation before a court of competent jurisdiction.

(c) *Alternative dispute resolution.* Bidders/offerors and VA contracting officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, VA will not furnish any documentation in an ADR proceeding beyond what is allowed by the FAR.

(d) *Appeal of contracting officer's protest decision—agency appellate review.* An interested party may request an independent review of a contracting officer's protest decision by filing an appeal in accordance with paragraph (a)(2) of this section.

(1) To be considered timely, the appeal must be received by the cognizant official in paragraph (a)(2) of this section within 10 calendar days of the date the interested party knew, or should have known, whichever is earlier, of the basis for the appeal.

(2) Appeals do not extend the Government Accountability Office's (GAO) timeliness requirements for protests to GAO. By filing an appeal as provided in this paragraph (d), an interested party may waive its rights to further protest to the Comptroller General at a later date.

(3) Agency responses to appeals submitted to the agency shall be reviewed and concurred in by the Office of the General Counsel (OGC).

833.106–70 Solicitation provisions.

(a) The contracting officer shall insert the provision at 852.233–70, Protest Content/Alternative Dispute Resolution, in solicitations expected to exceed the simplified acquisition threshold, including those for commercial items.

(b) The contracting officer shall insert the provision at 852.233–71, Alternate Protest Procedure, in solicitations expected to exceed the simplified acquisition threshold, including those for commercial items.

Subpart 833.2—Disputes and Appeals

833.209 Suspected fraudulent claims.

The contracting officer must refer matters relating to suspected fraudulent claims to the Office of Inspector General for investigation and potential referral to the Department of Justice. The contracting officer may not initiate any collection, recovery, or other settlement action while the matter is in the hands of the Department of Justice without first obtaining the concurrence of the U.S. Attorney concerned, through the Office of the Inspector General.

833.211 Contracting officer's decision.

(a) For purposes of appealing a VA contracting officer's final decision, the Board of Contract Appeals referenced in FAR 33.211(a) and elsewhere in this subpart is the Civilian Board of Contract Appeals (CBCA), 1800 F Street NW, Washington, DC 20405.

833.213 Obligation to continue performance.

(a) As provided in FAR 33.213, contracting officers shall use FAR clause 52.233–1, Disputes, or with its Alternate I. FAR clause 52.233–1 requires the contractor to continue performance in accordance with the contracting officer's decision in the event of a claim arising *under* a contract. Alternate I expands this authority, adding a requirement for the contractor to continue performance in the event of a claim *relating* to the contract.

(b) In the event of a dispute not arising under, but relating to, the contract, as permitted by FAR 33.213(b), if the contracting officer directs continued performance and considers providing financing for such continued performance, the contracting officer shall contact OGC for advice prior to requesting higher level approval for or authorizing such financing. The contracting officer shall document in the contract file any required approvals and how the Government's interest was properly secured with respect to such financing (see FAR 32.202–4 and VAAR subpart 832.2).

833.214 Alternative dispute resolution (ADR).

Contracting officers and contractors are encouraged to use alternative dispute resolution (ADR) procedures. Guidance on ADR may be obtained at the U.S. Civilian Board of Contract Appeals website: *http://www.cbca.gsa.gov.*

833.215 Contract clauses.

The contracting officer shall use the clause at 52.233–1, Disputes, or with its Alternate I (see 833.213).

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 8127–8128, and 8151–8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1303; 41 U.S.C 1702;.and 48 CFR 1.301–1.304.

■ 4. The heading of subpart 852.2 is revised to read as follows:

Subpart 852.2—Text of Provisions and Clauses

■ 5. Section 852.233–70 is revised to read as follows:

852.233–70 Protest Content/Alternative Dispute Resolution.

As prescribed in 833.106–70(a), insert the following provision:

PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (SEP 2018)

(a) Any protest filed by an interested party shall—

(1) Include the name, address, fax number, email and telephone number of the protester;

(2) Identify the solicitation and/or contract number;

(3) Include an original signed by the protester or the protester's representative and at least one copy;

(4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;

(5) Specifically request a ruling of the individual upon whom the protest is served;

(6) State the form of relief requested; and

(7) Provide all information establishing the timeliness of the protest.

(b) Failure to comply with the above may result in dismissal of the protest without further consideration.

(c) Bidders/offerors and Contracting Officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(End of provision)

■ 6. Section 852.233–71 is revised to read as follows:

852.233–71 Alternate Protest Procedure.

As prescribed in 833.106–70(b), insert the following provision:

ALTERNATE PROTEST PROCEDURE (SEP 2018)

(a) As an alternative to filing a protest with the Contracting Officer, an interested party may file a protest by mail or electronically with: Executive Director, Office of Acquisition and Logistics, Risk Management and Compliance Service (003A2C), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or Email: *EDProtests@va.gov.*

(b) The protest will not be considered if the interested party has a protest on the same or similar issue(s) pending with the Contracting Officer.

(End of provision)

PART 871—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAMS

■ 7. The authority citation for part 871 is revised to read as follows:

Authority: 38 U.S.C. Chapter 31; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 871.2—Vocational Rehabilitation and Employment Service

■ 8. Amend section 871.201–1 by revising the introductory text and paragraph (b) to read as follows:

871.201–1 Requirements for the use of contracts.

The costs for tuition, fees, books, supplies, and other expenses are allowable under a contract with an institution, training establishment, or employer for the training and rehabilitation of eligible Veterans under 38 U.S.C. chapter 31, provided the services meet the conditions in the following definitions:

* * * * *

(b) *Special services or special courses.* Special services or courses are those services or courses that VA requests that are supplementary to those the institution customarily provides for similarly circumstanced non-Veteran students and that the contracting officer considers to be necessary for the rehabilitation of the trainee.

[FR Doc. 2018–18985 Filed 9–12–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1506 and 1552

[EPA–HQ–OARM–2017–0281; FRL–9974–44–OARM]

Acquisition Regulation: Update to Clauses Pertaining to Release of Contractor Confidential Business Information, Submission of Invoices, and the ''Authorized or Required by Statute'' Exception for Other Than Full and Open Competition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend the EPA Acquisition Regulation (EPAAR). The clause pertaining to ''Release of Contractor Confidential Business'' is updated to incorporate the existing class deviation and make a minor addition. The ''Submission of Invoices'' clause is revised to incorporate the existing class deviation and updated with minor administrative edits. The clause ''Authorized or Required by Statute'' is clarified regarding the applicability of written justification requirements for the exception for other than full and open competition.

DATES: This final rule is effective on December 12, 2018 without further notice, unless EPA receives adverse comment by October 15, 2018. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2017–0281, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Holly Hubbell, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–1091; email address: *hubbell.holly@epa.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

This direct final rule makes changes to the EPAAR, Federal Acquisition Regulation (FAR), 48 CFR parts 1506 and 1552. This rule includes the following content changes: (1) Under EPAAR § 1506.302–5(b)(1), adds clarifying language that the Contracting Officer need not provide any written justification under FAR 8.405–6 or 13.501 for use of other than full and open competition when acquiring expert services under the authority of section 109(e) of the Superfund Amendments and Reauthorization Act of 1986 (SARA); (2) revises EPAAR § 1552.232–70 to add information on circumstances that may require obtaining subcontractor costs, makes minor administrative changes, and incorporates invoice preparation instructions; and (3) revises EPAAR § 1552.235–79 to expand the possible circumstances where the EPA may release the Contractor's CBI.

II. General Information

A. Why is EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. Any parties interested in commenting must do so at this time.

B. Does this action apply to me?

EPAAR §§ 1552.232–70 and 1552.235–79 apply to contractors who hold a cost-reimbursable contract with EPA. EPAAR § 1506.302–5 applies to

EPA contracting personnel providing for and imposing responsibilities when contracting under other than full and open competition.

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

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

III. Background

EPAAR § 1552.235–79—Release of Contractor Confidential Business Information, was promulgated in the **Federal Register** (61 FR 14267, April 1, 1996). A Determination and Findings (D&F) found that changes were required to this EPAAR section because complete cost information was vital to the Government's ability to recover federal funds expended for oil spill responses from the parties responsible for these spills. Consequently, a Class Deviation, signed on March 22, 2001 by Judy S. Davis, Acting Director, Office of Acquisition Management to this EPAAR section, was developed to allow EPA to release cost information from the Emergency and Rapid Response Services (ERRS) and Superfund Technical Assessment and Response Team (START) contracts to federal agencies and other parties involved in oil spill cost recovery efforts. The rule incorporates the Class Deviation for EPAAR § 1552.235–79 into the EPAAR and makes other minor administrative updates.

EPAAR § 1552.232–70, Submission of Invoices, was promulgated in the **Federal Register** (61 FR 29317, June 10, 1996). The Class Deviation is also dated June 1996 and adds in Invoice Preparation Instructions for SF–1034. The rule incorporates the Class Deviation for EPAAR § 1552.232–70 into the EPAAR and makes other minor administrative updates.

EPAAR § 1506.302–5, Authorized or Required by Statute, was promulgated in the **Federal Register** (53 FR 31872, Aug. 22, 1988). This current action clarifies the applicability of the requirement for written justification for the use of other than full and open competitive procedures when acquiring expert services under the authority of section 109(e) of Superfund Amendments and Reauthorization Act of 1986 (SARA). The FAR was amended on January 2, 1997, to include FAR 13.501 sole source justification requirements for simplified acquisitions under part 13, and again on June 18, 2004, to include FAR 8.405–6 limited source justification (LSJ) requirements for Federal Supply Service acquisitions under part 8. EPA never amended EPAAR § 1506.302–5 to account for the LSJ and sole source requirements of those FAR sections.

IV. Statutory and Executive Orders Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No information is collected under this action.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impact of this rule on small entities, ''small entity'' is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR provision and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an

accountable process to ensure ''meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This rule 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 as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications as specified in Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use'' (66 FR 28335, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C. 272 note) of NTTA, Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rulemaking will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 48 CFR Parts 1506 and 1552

Environmental protection, Government procurement, Reporting and recordkeeping requirements.

Dated: August 21, 2018.

Kimberly Patrick,

Director, Office of Acquisition Management.

For the reasons stated in the preamble, 48 CFR parts 1506 and 1552 are amended as set forth below:

PART 1506—COMPETITION REQUIREMENTS

■ 1. The authority citation for part 1506 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

■ 2. Amend section 1506.302–5 by revising paragraph (b)(1) to read as follows:

1506.302–5 Authorized or required by statute.

* * * * *

(b) *Application.* (1) The contracting officer may use other than full and open competition to acquire the services of experts for use in preparing or prosecuting a civil or criminal action under SARA whether or not the expert is expected to testify at trial. The contracting officer need not provide any written justification (*e.g.,* under FAR 6.303, 8.405–6, or 13.501) for the use of other than full and open competitive procedures when acquiring expert services under the authority of section 109(e) of SARA. The contracting officer shall document the official contract file when using this authority.

* * * * *

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 418b

■ 4. Revise section 1552.232–70 to read as follows:

1552.232–70 Submission of invoices.

As prescribed in 1532.908, insert the following clause:

Submission of Invoices (DEC 2018)

In order to be considered properly submitted, an invoice or request for contract financing payment must meet the following contract requirements in addition to the requirements of FAR 32.905:

(a) Unless otherwise specified in the contract, an invoice or request for contract financing payment shall be submitted to the following offices/individuals designated in the contract: one copy to the RTP Finance Center shown in Block 12 on the cover of the contract; one copy to the Contracting Officer's Representative (the Contracting Officer's Representative may direct a copy to a separate address); and one copy to the Contracting Officer.

(b) The Contractor shall prepare its invoice or request for contract financing payment on the prescribed Government forms. Standard Form 1034, Public Voucher for Purchases and Services other than Personal, shall be used by contractors to show the amount claimed for reimbursement. Standard Form 1035, Public Voucher for Purchases and Services other than Personal—Continuation Sheet, shall be used to furnish the necessary supporting detail or additional information required by the Contracting Officer. The Contractor may submit self-designed forms which contain the required information.

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions. If contract work is authorized by an individual task order or delivery order (TO/DO), the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each TO/DO and for the contract total, as well as any supporting data for each TO/DO as identified in the instructions.

(2) The invoice or request for contract financing payment shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. For current costs, each major cost element shall include the appropriate supporting schedule identified in the invoice preparation instructions. Cumulative charges represent the net sum of current charges by cost element for the contract period.

(d)(1) The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(2) On a case-by-case basis, when needed to verify the reasonableness of subcontractor costs, the Contracting Officer may require that the contractor obtain from the subcontractor cost information in the detail set forth in paragraph (c)(2) of this section. This information should be obtained through a means which maintains subcontractor confidentiality (for example, via sealed envelopes), if the subcontractor expresses Confidential Business Information (CBI) concerns.

(e) Invoices or requests for contract financing payment must clearly indicate the period of performance for which payment is requested. Separate invoices or requests for contract financing payment are required for charges applicable to the base contract and each option period.

(f)(1) Notwithstanding the provisions of the clause of this contract at FAR 52.216–7, Allowable Cost and Payment, invoices or requests for contract financing payment shall be submitted once per month unless there has been a demonstrated need and Contracting Officer approval for more frequent billings. When submitted on a monthly basis, the period covered by invoices or requests for contractor financing payments shall be the same as the period for monthly progress reports required under this contract.

(2) If the Contracting Officer allows submissions more frequently than monthly, one submittal each month shall have the same ending period of performance as the monthly progress report.

(3) Where cumulative amounts on the monthly progress report differ from the aggregate amounts claimed in the invoice(s) or request(s) for contract financing payments covering the same period, the contractor shall provide a reconciliation of the difference as part of the payment request.

(g) *EPA Invoice Preparation Instructions—SF 1034.* The information which a contractor is required to submit in its Standard Form 1034 is set forth as follows:

(1) *U.S. Department, Bureau, or establishment and location*—Insert the names and address of the servicing finance office, unless the contract specifically provides otherwise.

(2) *Date Voucher Prepared*—Insert date on which the public voucher is prepared and submitted.

(3) *Contract/Delivery Order Number and Date*—Insert the number and date of the contract and task order or delivery order, if applicable, under which reimbursement is claimed.

(4) *Requisition Number and Date*—Leave blank.

(5) *Voucher Number*—Insert the appropriate serial number of the voucher. A separate series of consecutive numbers, beginning with Number 1, shall be used by the contractor for each new contract. When an original voucher was submitted, but not paid in full because of suspended costs, resubmission vouchers should be submitted in a separate invoice showing the original voucher number and designated with the letter ''R'' as the last character of the number. If there is more than one resubmission, use the appropriate suffix (R2, R3, etc.) For an adjustment invoice, put invoice number #Adj. For a final invoice, put invoice number F. For a completion invoice, put invoice number #C.

(6) *Schedule Number; Paid By; Date Invoice Received*—Leave blank.

(7) *Discount Terms*—Enter terms of discount, if applicable.

(8) *Payee's Account Number*—This space may be used by the contractor to record the account or job number(s) assigned to the contract or may be left blank.

(9) *Payee's Name and Address*—Show the name of the contractor exactly as it appears in the contract and its correct address, except when an assignment has been made by the contractor, or the right to receive payment has been restricted, as in the case of an advance account. When the right to receive payment is restricted, the type of information to be shown in this space shall be furnished by the Contracting Officer.

(10) *Shipped From; To; Weight Government B/L Number*—Insert for supply contracts.

(11) *Date of Delivery or Service*—Show the month, day and year, beginning and ending dates of incurrence of costs claimed for reimbursement. Adjustments to costs for prior periods should identify the period applicable to their incurrence, e.g., revised provisional or final indirect cost rates, award fee, etc.

(12) *Articles or Services*—Insert the following: ''For detail, see Standard Form 1035 total amount claimed transferred from Page __ of Standard Form 1035.'' Insert ''COST REIMBURSABLE—PROVISIONAL PAYMENT'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—PROVISIONAL PAYMENT'' on the Interim public vouchers. Insert ''COST REIMBURSABLE—COMPLETION VOUCHER'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—COMPLETION VOUCHER'' on the Completion public voucher. Insert ''COST REIMBURSABLE—FINAL VOUCHER'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—FINAL VOUCHER'' on the final public voucher. Insert the following certification, signed by an authorized official, on the face of the Standard Form 1034:

''I certify that all payments requested are for appropriate purposes and in accordance with the agreements set forth in the contract.''

_____

(Name of Official)

_____

(Title)

(13) *Quantity; Unit Price*—Insert for supply contracts.

(14) *Amount*—Insert the amount claimed for the period indicated in paragraph (g)(11) of this clause.

(h) *EPA Invoice Preparation Instructions—SF 1035.* The information which a contractor is required to submit in its Standard Form 1035 is set forth as follows:

(1) *U.S. Department, Bureau, or Establishment*—Insert the name and address of the servicing finance office.

(2) *Voucher Number*—Insert the voucher number as shown on the Standard Form 1034.

(3) *Schedule Number*—Leave blank.

(4) *Sheet Number*—Insert the sheet number if more than one sheet is used in numerical sequence. Use as many sheets as necessary to show the information required.

(5) *Number and Date of Order*—Insert payee's name and address as in the Standard Form 1034.

(6) *Articles or Services*—Insert the contract number as in the Standard Form 1034.

(7) *Amount*—Insert the latest estimated cost, fee (fixed, base, or award, as applicable), total contract value, and amount and type of fee payable (as applicable).

(8) *A summary of claimed current and cumulative costs and fee by major cost element*—Include the rate(s) at which indirect costs are claimed and indicate the base of each by identifying the line of costs to which each is applied. The rates invoiced

should be as specified in the contract or by a rate agreement negotiated by EPA's Cost and Rate Negotiation Team.

(9) *Fee*—The fee shall be determined in accordance with instructions appearing in the contract.

Note to paragraph (h)—Amounts claimed on vouchers must be based on records maintained by the contractor to show by major cost element the amounts claimed for reimbursement for each applicable contract. The records must be maintained based on the contractor's fiscal year and should include reconciliations of any differences between the costs incurred and amounts claimed for reimbursement. A memorandum record reconciling the total indirect cost(s) claimed should also be maintained.

(i) *Supporting Schedules for Cost Reimbursement Contracts.* The following backup information is required as an attachment to the invoice as shown by category of cost:

(1) *Direct Labor*—Identify the number of hours (by contractor labor category and total) and the total loaded direct labor hours billed for the period in the invoice.

(2) *Indirect Cost Rates*—Identify by cost center, the indirect cost rate, the period, and the cost base to which it is applied.

(3) *Subcontracts*—Identify the major cost elements for each subcontract.

(4) *Other Direct Costs*—When the cost for an individual cost (e.g., photocopying, material and supplies, telephone usage) exceeds $1,000 per the invoice period, provide a detailed explanation for that cost category.

(5) *Contractor Acquired Equipment (if authorized by the contract)*—Identify by item the quantities, unit prices, and total dollars billed.

(6) *Contractor Acquired Software (if authorized by the contract)*—Identify by item the quantities, unit prices, and total dollars billed.

(7) *Travel*—When travel costs exceed $2,000 per invoice period, identify by trip, the number of travelers, the duration of travel, the point of origin, destination, purpose of trip, transportation by unit price, per diem rates on daily basis and total dollars billed. Detailed reporting is not required for local travel. The manner of breakdown, e.g., task order/delivery order basis with/without separate program management, contract period will be specified in the contract instructions.

Note to paragraph (i)—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be suspended, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts of cumulative costs:

1. Suspended as of the date of the invoice; and

2. Disallowed on the contract as of the date of the invoice.

The amount shall include costs originally suspended and later disallowed. Also include an explanation of the changes in cumulative costs suspended or disallowed by addressing each adjustment in terms of: voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

(j) *Supporting Schedules for Time and Materials Contracts.* The following backup information is required as an attachment to the invoice as shown by category of cost:

(1) *Direct Labor*—Identify the number of hours (by contractor labor category and total) and the total direct labor hours billed for the period of the invoice.

(2) *Subcontracts*—Identify the major cost elements for each subcontract.

(3) *Other Direct Costs*—When the cost for an individual cost (e.g., photocopying, material and supplies, telephone usage) exceeds $1,000 per the invoice period, provide a detailed explanation for that cost category.

(4) *Indirect Cost Rates*—Identify by cost center, the indirect cost rate, the period, and the cost base to which it is applied.

(5) *Contractor Acquired Equipment*—Identify by item the quantities, unit prices, and total dollars billed.

(6) *Contractor Acquired Software*—Identify by item the quantities, unit prices, and total dollars billed.

(7) *Travel*—When travel costs exceed $2,000 per invoice period, identify by trip, the number of travelers, the duration of travel, the point of origin, destination, purpose of trip, transportation by unit price, per diem rates on daily basis and total dollars billed. Detailed reporting is not required for local travel. The manner of breakdown, e.g., task order/delivery order basis with/without separate program management, contract period will be specified in the contract instructions.

Note to paragraph (j)—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be suspended, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts of cumulative costs:

1. Suspended as of the date of the invoice; and

2. Disallowed on the contract as of the date of the invoice.

The amount shall include costs originally suspended and later disallowed. Also include an explanation of the changes in cumulative costs suspended or disallowed by addressing each adjustment in terms of: voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

(k) *Resubmissions.* When an original voucher was submitted, but not paid in full because of suspended costs and after receipt of a letter of removal of suspension, resubmissions of any previously claimed amounts which were suspended should be submitted in a separate invoice showing the original voucher number and designated with the letter ''R'' with the copy of the removal of suspension notice. The amounts should be shown under the appropriate cost category and include all appropriate supplemental schedules.

Note to paragraph (k)—All disallowances must be identified as such in the accounting system through journal entries.

(l) *Adjustment Vouchers.* Adjustment vouchers should be submitted if finalized indirect rates were received but the rates are not for the entire period of performance. For example, the base period of performance is for a calendar year but your indirect rates are by fiscal year. Hence, only part of the base period can be adjusted for the applicable final indirect rates. These invoices should be annotated with ''adj'' after the invoice number.

(m) *Final Vouchers.* Final Vouchers shall be submitted if finalized rates have been received for the entire period of performance. For example, the base period of performance is for a calendar year but your indirect rates are by fiscal year. You have received finalized rates for the entire base period that encompass both fiscal years that cover the base period. In accordance with FAR 52.216–7, these invoices shall be submitted within 60 days after settlement of final indirect cost rates. They should be annotated with the word ''Final'' or ''F'' after the invoice number. Due to system limitations, the invoice number cannot be more than 11 characters to include spaces.

(n) *Completion Vouchers.* In accordance with FAR 52.216–7(d)(5), a completion voucher shall be submitted within 120 days (or longer if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract. The voucher shall reflect the settled amounts and rates. It shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice. Since EPA's invoices must be on a period of performance basis, the contractor shall have a completion invoice for each year of the period of performance. This voucher must be submitted to the Contracting Officer for review and approval before final payment can be made on the contract. The Contracting Officer may request an audit of the completion vouchers before final payment is made. In addition, once approved, the Contracting Officer will request the appropriate closeout paperwork for the contract. For contracts separately invoiced by delivery or task order, provide a schedule showing final total costs claimed by delivery or task order and in total for the contract. In addition to the completion voucher, the contractor must submit the Contractor's Release; Assignee's Release, if applicable; the Contractor's Assignment of Refunds, Rebates, Credits and other Amounts; the Assignee's Assignment of Refunds, Rebates, Credits and other Amounts, if applicable; and the Contractor's Affidavit of Waiver of Lien, when required by the contract.

Alternate I (DEC 2018)

If used in a non-commercial time and materials type contract, substitute the following paragraphs (c)(1) and (2) for paragraphs (c)(1) and (2) of the basic clause:

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions. If contract work is authorized by individual task order or delivery order (TO/DO), the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each TO/DO and for the contract total, as well as any supporting data for each TO/DO as identified in the instructions.

(2) The invoice or request for contract financing payment that employs a fixed rate feature shall include current and cumulative charges by contract labor category and by other major cost elements such as travel, equipment, and other direct costs. For current costs, each cost element shall include the appropriate supporting schedules identified in the invoice preparation instructions.

(End of clause)

■ 5. Revise section 1552.235–79 to read as follows:

1552.235–79 Release of contractor confidential business information.

As prescribed in 1535.007–70(f), insert the following clause:

Release of Contractor Confidential Business Information (DEC 2018)

(a) The Environmental Protection Agency (EPA) may find it necessary to release information submitted by the Contractor either in response to this solicitation or pursuant to the provisions of this contract, to individuals not employed by EPA. Business information that is ordinarily entitled to confidential treatment under existing EPA regulations (40 CFR part 2) may be included in the information released to these individuals. Accordingly, by submission of this proposal or signature on this contract or other contracts, the Contractor hereby consents to a limited release of its confidential business information (CBI). An EPA contractor may assert a business confidentiality claim covering part or all of the information submitted by the contractor in a manner that is consistent with 40 CFR 2.203(b). If no such CBI claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the EPA contactor, pursuant to 40 CFR 2.203(a), and will not require the additional measures set forth in this section.

(b) Possible circumstances where the EPA may release the Contractor's CBI include, but are not limited to the following:

(1) To EPA contractors and other federal agencies and their contractors tasked with recovery, or assisting the Agency in the recovery, of Federal funds expended pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, as amended, (CERCLA or Superfund) and/or Sec. 311(c) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 1321(c));

(2) To the U.S. Department of Justice (DOJ) and contractors employed by DOJ for use in advising the EPA and representing the EPA or other federal agencies in procedures for the recovery of Superfund expenditures and costs and damages to be deposited to the Oil Spill Liability Trust Fund (OSLTF);

(3) To the U.S. Department of the Treasury and contractors employed by that department for use in collecting costs to be deposited to the Superfund or the OSLTF;

(4) To parties liable, or potentially liable, for costs under CERCLA Sec. 107 (42 U.S.C. 9607), OPA Sec. 1002 (33 U.S.C. 2702), or CWA Sec. 311 (33 U.S.C. 1321) and their insurers or guarantors ('Potentially Responsible Parties') for purposes of facilitating collection, settlement or litigation of claims against such parties;

(5) To EPA contractors who, for purposes of performing the work required under the respective contracts, require access to information that the Agency obtained under the Clean Air Act (42 U.S.C. 7401 *et seq.*); the CWA (33 U.S.C.1251 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*); the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*); CERCLA (42 U.S.C. 9601 *et seq.*); or the OPA (33 U.S.C. 2701 *et seq.*);

(6) To EPA contractors tasked with assisting the Agency in handling and processing information and documents in the administration of Agency contracts, such as providing both preaward and post award audit support and specialized technical support to the Agency's technical evaluation panels;

(7) To employees of grantees working at EPA under the Senior Environmental Employment (SEE) Program;

(8) To Speaker of the House, President of the Senate, or Chairman of a Congressional Committee or Subcommittee;

(9) To entities such as the United States Government Accountability Office, boards of contract appeals, and the Courts in the resolution of solicitation or contract protests and disputes;

(10) To EPA contractor employees engaged in information systems analysis, development, operation, and maintenance, including performing data processing and management functions for the EPA; and

(11) Pursuant to a court order or court-supervised agreement.

(c) The EPA recognizes an obligation to protect the contractor from competitive harm that may result from the release of such information to a competitor. (See also the clauses in this document entitled ''Screening Business Information for Claims of Confidentiality'' and ''Treatment of Confidential Business Information.'') Except where otherwise provided by law, CBI shall be released under paragraphs (b)(1), (2), (3), (4), (5), (6), (7) or (10) of this clause only pursuant to a confidentiality agreement.

(d) With respect to EPA contractors, EPAAR § 1552.235–71 will be used as the confidentiality agreement. With respect to contractors for other federal agencies, EPA will expect these agencies to enter into similar confidentiality agreements with their contractors. With respect to Potentially Responsible Parties, such confidentiality agreements may permit further disclosure to other entities where necessary to further settlement or litigation of claims under CERCLA, the CWA, or the OPA. Such entities include, but are not limited to, accounting firms and technical experts able to analyze the information, provided that they also agree to be bound by an appropriate confidentiality agreement.

(e) This clause does not authorize the EPA to release the Contractor's CBI to the public pursuant to a request filed under the Freedom of Information Act.

(f) The Contractor agrees to include this clause, including this paragraph (f), in all subcontracts at all levels awarded pursuant to this contract that require the furnishing of confidential business information by the subcontractor.

(End of clause)

[FR Doc. 2018–19769 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 83, No. 178
Thursday, September 13, 2018

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0057; Product Identifier 2017–SW–119–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Leonardo S.p.A. (Leonardo) Model AW169 helicopters. This proposed AD would require replacing the seals, filler wedges, and handles of each emergency exit window. This proposed AD is prompted by a report that a high level of pushing force was required to jettison some windows. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 13, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0057; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2017–0155, dated August 23, 2017, to correct an unsafe condition for Leonardo Model AW169 helicopters, serial numbers 69007, 69009, 69011 to 69019 inclusive, 69021 to 69024 inclusive, 69027, 69032, 69033, 69041, 69045, and 69051. EASA advises that during scheduled replacement of emergency exit window seals on in-service Model AW169 helicopters, an ''excessively high'' level of pushing force was required to jettison some windows. Further investigation determined that the affected windows were incorrectly installed during manufacturing. The installation did not conform to the approved drawings during the first installation in the production line. According to EASA, due to the similarity in the manufacturing process, incorrect window installation may have occurred on Model AW169 helicopters. EASA states that this condition, if not corrected, could prevent the jettisoning of helicopter emergency exit windows, possibly affecting the evacuation of occupants after an emergency landing.

EASA consequently requires replacement of the seal, the non-metallic channel (filler wedges), and the handle of emergency exit windows installed in the cockpit doors and cabin.

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Leonardo Service Bulletin No. 169–032, Revision A, dated September 8, 2017, which specifies

replacing the seals, the non-metallic channels, handles, and decals on the cockpit doors and cabin emergency exit windows.

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

Proposed AD Requirements

This proposed AD would require within 70 hours time-in-service (TIS), replacing the seals and filler wedges on various cockpit and passenger windows and replacing certain internal and external window straps. This proposed AD also would require replacing decals on certain internal and external passenger and cockpit windows.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires that the corrective actions occur within 70 hours TIS or 6 months. This proposed AD would require that the corrective actions occur within 70 hours TIS.

Costs of Compliance

We estimate that this proposed AD would affect 1 helicopter of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect that 24 work-hours would be needed to replace the decal, seal, filler wedges, and handle of each emergency exit window installed in cockpit doors and the cabin. Parts would cost $1,500 for a total cost of $3,540 for this helicopter.

According to Leonardo's service information some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo. Accordingly, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.A.: Docket No. FAA–2018–0057; Product Identifier 2017–SW–119–AD.

(a) Applicability

This AD applies to Leonardo S.p.A. (Leonardo) Model AW169 helicopters, serial numbers 69007, 69009, 69011 through 69019, 69021 through 69024, 69027, 69032, 69033, 69041, 69045, and 69051, certificated in any category, where the emergency exit windows have never been removed and reinstalled.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of an emergency window to jettison, which could prevent occupants from evacuating the helicopter during an emergency.

(c) Comments Due Date

We must receive comments by November 13, 2018.

(d) Compliance

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

(e) Required Actions

Within 70 hours time-in-service:

(1) Replace the seals and filler wedges on the left hand (LH) and right hand (RH) cockpit door upper windows.

Note 1 to paragraph (e) of this AD: Leonardo refers to filler wedges as ''non-metallic channels.''

(2) Replace the seals and filler wedges on the forward LH and RH passenger door windows. For helicopters without passenger sliding window kit part number (P/N) 6F5630F00411, also replace the seals and filler wedges of the aft LH and RH passenger door windows.

(3) For helicopters with a strap P/N A487A003A, replace each strap with emergency exit window handle P/N 8G9500L00151 on the internal side of the window and P/N 8G9500L00251 on the external side of the window.

(4) Remove any decal P/N A180A005E21 from the internal side of the passenger and cockpit windows and replace with decal P/N A180A022E21, using as a reference Figure 1 and Figure 2 of Leonardo Service Bulletin No. 169–032, Revision A, dated September 8, 2017 (SB No. 169–032).

(5) Remove any decal P/N A487A003A from the external side of the passenger and cockpit windows and replace with decals P/N AW003DE005E33B, using as a reference Figure 3 of SB No. 169–032.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0155, dated August 23, 2017. You

may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 5220, Emergency Exits

Issued in Fort Worth, Texas, on July 11, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–19736 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1126; Product Identifier 2017–SW–125–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 97–26–03 for Eurocopter Deutschland GmbH Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. AD 97–26–03 requires visual inspections for cracks in the ribbed area of the main rotor (M/R) mast flange (flange). Since we issued AD 97–26–03, we have determined that a certain reinforced M/R mast is not affected by the unsafe condition. This proposed AD would retain the requirements of AD 97–26–03 and would remove a certain M/R mast from the applicability. The actions of this proposed AD are intended to address an unsafe condition on these products.

DATES: We must receive comments on this proposed AD by November 13, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1126; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received and other information. The street address for Docket Operations (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

We issued AD 97–26–03, Amendment 39–10246 (62 FR 65750, December 16, 1997) (AD 97–26–03) for Eurocopter Deutschland GmbH (now Airbus Helicopters Deutschland GmbH) Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. AD 97–26–03 requires visual inspections for cracks in the ribbed area of the M/R flange and replacing the M/R mast if a crack is found. AD 97–26–03 was prompted by AD 97–276, effective September 25, 1997, issued by Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, to correct an unsafe condition for Eurocopter Deutschland GmbH Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters. The LBA AD required immediate and repetitive inspections for a crack in the flange area after an M/R mast was found to have cracks ''of critical magnitude.'' When LBA AD 97–276 was issued, the cause of the cracks was under investigation. The actions of AD 97–26–03 are intended to detect cracks in the flange, which could result in failure of the flange and subsequent loss of helicopter control.

Actions Since AD 97–26–03 Was Issued

Since we issued AD 97–26–03, EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2017–0193, dated September 29, 2017, to supersede the LBA AD. EASA advises that reinforced M/R mast part number (P/N) 4639 305 095, which is part of M/R mast assembly P/N 4639 205 016, is not affected by the unsafe condition. The EASA AD retains the repetitive inspection requirements but only for helicopters with M/R mast P/N 4639 305 002.

Also, since we issued AD 97–26–03, Eurocopter Deutschland GmbH Helicopters changed its name to Airbus Helicopters Deutschland GmbH. This proposed AD reflects that change and updates the contact information to obtain service documentation.

Additionally, the FAA's Aircraft Certification Service has changed its

organizational structure. The new structure replaces product directorates with functional divisions. We have revised some of the office titles and nomenclature throughout this proposed AD to reflect the new organizational changes. Additional information about the new structure can be found in the Notice published on July 25, 2017 (82 FR 34564).

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin No. ASB MBB–BK117–10–114, Revision 1, dated July 28, 2017. This service information specifies visually inspecting the area of the holes on the underside of the flange for cracks, especially in the ribbed area between the holes, and if cracks are found, contacting Airbus Helicopters Deutschland GmbH before further flight for advice on how to proceed. This service information applies to helicopters with M/R mast assembly P/N 4639205011.

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

Other Related Service Information

We also reviewed Eurocopter Alert Service Bulletin No. ASB MBB–BK117–10–114, dated August 27, 1997, which specifies visually inspecting the area of the holes on the underside of the flange for cracks, especially in the ribbed area between the holes, and if cracks are found, contacting Eurocopter Helicopter Deutschland GmbH before further flight for advice on how to proceed. This service information applies to helicopters with M/R mast assembly P/N 4639205011 or 4639205016.

Proposed AD Requirements

This proposed AD would require before further flight and thereafter at intervals not to exceed 100 hours time-in-service, visually inspecting the flange in the ribbed area for a crack using a 5-power or higher magnifying glass. If a crack exists, this proposed AD would require removing the M/R mast before further flight and replacing it with an airworthy M/R mast.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires contacting Airbus Helicopters if a crack is found on the flange for applicable instructions, whereas this proposed AD would require replacing the M/R mast with an airworthy M/R mast before further flight.

Costs of Compliance

We estimate that this proposed AD would affect 62 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, we expect the following costs:

- Visually inspecting the flange for a crack would require .25 work-hour and no parts for a cost of about $21 per helicopter and $1,302 for the U.S. fleet per inspection cycle.
- Replacing the M/R mast would require 10 work-hours and parts would cost $50,000 for a cost of $50,850 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 97–26–03, Amendment 39–10246 (62 FR 65750, December 16, 1997), and adding the following new AD:

Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH): Docket No. FAA–2017–1126; Product Identifier 2017–SW–125–AD.

(a) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH (previously Eurocopter Deutschland GmbH) Model MBB–BK 117 A–1, MBB–BK 117 A–3, MBB–BK 117 A–4, MBB–BK 117 B–1, MBB–BK 117 B–2, and MBB–BK 117 C–1 helicopters, certificated any category, with a main rotor (M/R) mast assembly part number (P/N) 4639 205 011 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a M/R mast flange. This condition could result in failure of the mast flange and subsequent loss of helicopter control.

(c) Affected ADs

This AD replaces AD 97–26–03, Amendment 39–10246 (62 FR 65750, December 16, 1997).

(d) Comments Due Date

We must receive comments by November 13, 2018.

(e) Compliance

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

(f) Required Actions

(1) Before further flight, and thereafter at intervals not to exceed 100 hours time-in-service, visually inspect the flange in the ribbed area for cracks using a 5-power or higher magnifying glass in accordance with paragraphs 2.A.1 and 2.A.2 of the Accomplishment Instructions in Airbus Helicopters Alert Service Bulletin No. ASB–MBB–BK 117–10–114, Revision 1, dated July 28, 2017.

(2) If a crack is found as a result of the inspections specified in paragraph (f)(1) of this AD, remove the cracked M/R mast and replace it with an airworthy M/R mast.

(g) Credit for Previous Actions

Actions accomplished before the effective date of this AD in accordance with the procedures specified in AD 97–26–03, dated December 16, 1997, are acceptable for compliance with the corresponding actions specified in paragraphs (f)(1) and (f)(2) of this AD.

(h) Special Flight Permit

A special flight permit will not be permitted.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

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

(j) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. ASB MBB–BK 117–10–114, dated August 27, 1997, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0193, dated September 29, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(k) Subject

Joint Aircraft Service Component (JASC) Code: 6300, Main Rotor Drive System.

Issued in Fort Worth, Texas, on August 29, 2018.

Scott A. Horn,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–19737 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0794; Product Identifier 2017–NM–175–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2012–25–02, which applies to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2012–25–02 requires revising the airworthiness limitations section (AWL) of the instructions for continued airworthiness (ICA) of the maintenance requirements manual by incorporating new procedures for repetitive inspections for cracking of the rear pressure bulkhead (RPB). AD 2012–25–02 also requires revising the maintenance program to incorporate a revised task which requires an improved non-destructive inspection procedure. Since we issued AD 2012–25–02, additional in-service crack findings resulted in the development of a structural modification to the RPB. This proposed AD would mandate modification of the RPB and would add repetitive inspections for cracking of the RPB web, which would terminate certain actions in this proposed AD. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 29, 2018.

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 514–855–5000; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0794; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0794; Product Identifier 2017–NM–175–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We issued AD 2012–25–02, Amendment 39–17283 (77 FR 73902, December 12, 2012) (''AD 2012–25–02''), for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2012–25–02 requires revising the AWL of the ICA of the Canadair Regional Jet Maintenance Requirements Manual by incorporating new procedures for repetitive detailed and special detailed inspections for cracking of the RPB. AD 2012–25–02 also requires revising the maintenance program to incorporate a revised task specified in a certain temporary revision, which requires an improved non-destructive inspection procedure; and adds airplanes to the applicability. AD 2012–25–02 resulted from multiple reports of cracks on the forward face of the RPB web. We issued AD 2012–25–02 to detect and correct cracking in the RPB, which could result in reduced structural integrity and rapid decompression of the airplane.

Actions Since AD 2012–25–02 Was Issued

Since we issued AD 2012–25–02, additional in-service crack findings resulted in the development of a structural modification to the RPB.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2011–30R2, dated June 12, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> Cracks on the forward face of the Rear Pressure Bulkhead (RPB) web have been discovered on three CL–600–2B19 aeroplanes in-service.
>
> A Temporary Revision has been made to Part 2 of the Maintenance Requirements Manual (MRM) to revise the existing AWL task by introducing an improved Non-Destructive Inspection (NDI) procedure to ensure that fatigue cracking of the RPB is detected and corrected.
>
> The original issue of this [TCCA] AD [which corresponds to FAA AD 2012–25–02] mandated the incorporation of a new NDI procedure for AWL task number 53–61–153.
>
> Additional in-service findings have resulted in the issue of revision 1 of this [TCCA] AD, which mandates a structural modification to the rear pressure bulkhead with revised threshold and repeat inspection intervals. This modification is intended to preclude the onset of multiple site fatigue damage for the remaining service life of the aeroplane. If not corrected, a failure of the RPB could result in loss of structural integrity of the aeroplane.
>
> Revision 2 of this [TCCA] AD requires an inspection to be carried out prior to modification of the RPB. This revision also requires an additional modification to be completed on the RPB prior to terminating AWL task number 53–61–153. It also includes provisions to account for certain repairs as well as [alternative methods of compliance] AMOCs issued to earlier revisions of this [TCCA] AD.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0794.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information.

- Bombardier Repair Engineering Order (REO) 601R–53–61–1230, Revision F, dated November 7, 2011. This service information describes procedures for a repair to the pressure bulkhead web frame station (FS) 621.00, lintel installation.
- Bombardier REO 601R–53–61–1240, Revision D, dated October 31, 2016. This service information describes procedures for a repair and modification to FS 621.00 pressure bulkhead web.
- Bombardier REO 601R–53–61–5828, Revision A, dated March 16, 2017. This service information describes procedures for a repair to FS 621.00 pressure bulkhead web at left buttock line (LBL) 27.5.

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

FAA's Determination and Requirements of This Proposed AD

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

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (p)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

Differences Between This Proposed AD and the Service Information

The MCAI includes the following statement: ''If it is not possible to complete all of the instructions in the SBs [service bulletins] . . . due to the configuration of the aircraft, contact Bombardier Inc. for approved instructions.'' This issue is addressed in 14 CFR 39.17, which states that ''If a change in a product affects your ability to accomplish the actions required by the AD in any way, you must request FAA approval of an alternative method of compliance . . .'' Since we do not currently have the authority to delegate AMOC approvals to foreign civil aviation authorities, the FAA is responsible for these approvals.

Costs of Compliance

We estimate that this proposed AD affects 457 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 917 work-hours × $85 per hour = Up to $77,945	Up to $6,000	Up to $83,945	Up to $38,362,865.

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–25–02, Amendment 39–17283 (77 FR 73902, December 12, 2012), and adding the following new AD:

Bombardier Inc.: Docket No. FAA–2018–0794; Product Identifier 2017–NM–175–AD.

(a) Comments Due Date

We must receive comments by October 29, 2018.

(b) Affected ADs

This AD replaces AD 2012–25–02, Amendment 39–17283 (77 FR 73902, December 12, 2012) (''AD 2012–25–02'').

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7002 through 8025 inclusive, 8030, and 8034.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by multiple reports of cracks on the forward face of the rear pressure bulkhead (RPB) web, and additional in-service crack findings which resulted in the development of a structural modification to the RPB. We are issuing this AD to address cracking in the RPB, which could result in reduced structural integrity and rapid decompression of the airplane.

(f) Compliance

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

(g) Retained Revision of the Maintenance Program With New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2012–25–02, with a new terminating action. Except for the airplane having serial number 7002, within 60 days after January 16, 2013 (the effective date of AD 2012–25–02): Revise the maintenance program by incorporating the revised inspection requirements specified in airworthiness limitation section (AWL) 53–61–153 of Bombardier temporary revision (TR) 2B–2187, dated June 22, 2011, to Appendix B-Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM). The initial compliance times for the task are at the applicable time specified in paragraph (g)(1) or (g)(2) of this AD. Doing the actions required by paragraph (j) or (l) of this AD terminates the requirements of this paragraph, for the repaired area only. Accomplishment of the actions required by paragraph (m) of this AD terminates the requirements of this paragraph.

(1) For airplanes on which the special detailed inspection specified in AWL 53–61–153 of Bombardier TR 2B–2187, dated June 22, 2011; or Canadair Regional Jet TR 2B–2109, dated October 13, 2005; has not been done as of January 16, 2013 (the effective date of AD 2012–25–02): The initial compliance time for AWL 53–61–153 is at the applicable time specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD.

(i) For airplanes that have accumulated 10,500 total flight cycles or less as of January 16, 2013: Before the accumulation of 12,000 total flight cycles.

(ii) For airplanes that have accumulated more than 10,500 total flight cycles as of January 16, 2013: Within 1,500 flight cycles after January 16, 2013 (the effective date of AD 2012–25–02).

(2) For airplanes on which the special detailed inspection specified in AWL 53–61–

153 of Bombardier TR 2B–2187, dated June 22, 2011; or Canadair Regional Jet TR 2B–2109, dated October 13, 2005; has been done as of January 16, 2013 (the effective date of AD 2012–25–02): The initial compliance time for AWL 53–61–153 is within 4,360 flight cycles after accomplishing the most recent special detailed inspection, or within 1,500 flight cycles after accomplishing the most recent detailed inspection as specified in AWL 53–61–153 of Canadair Regional Jet TR 2B–2109, dated October 13, 2005, whichever occurs later.

(h) Retained No Alternative Actions or Intervals With New Exception

This paragraph restates the requirements of paragraph (j) of AD 2012–25–02, with a new exception. Except as required by paragraphs (j)(3), (l)(2), and (m) of this AD, after accomplishing the revisions required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used other than those specified in Bombardier TR 2B–2187, dated June 22, 2011, to Appendix B-Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM, unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p)(1) of this AD.

(i) Retained General Revision of the MRM With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2012–25–02, with no changes. The maintenance program revision required by paragraph (g) of this AD may be done by inserting a copy of Bombardier TR 2B–2187, dated June 22, 2011, into Appendix B-Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM. When this TR has been included in general revisions of the MRM, the general revisions may be inserted in the MRM, provided the relevant information in the general revision is identical to that in this TR.

(j) New Requirements of This AD: Inspections, Modification, and Maintenance or Inspection Program Revision

Accomplish the actions required by paragraphs (j)(1), (j)(2), and (j)(3) of this AD at the time specified, except as provided by paragraphs (l) and (m) of this AD.

(1) At the applicable time specified in figure 1 to paragraph (j) of this AD: Do a nondestructive inspection for cracking of the forward face of the fuselage station (FS) 621 pressure bulkhead, in accordance with AWL 53–61–153 of Bombardier TR 2B–2187, dated June 22, 2011, to Appendix B-Airworthiness Limitations, of Part 2 of the Bombardier CL–600–2B19 MRM.

(2) At the applicable time specified in figure 1 to paragraph (j) of this AD: Modify the RPB and do a nondestructive inspection for cracking of the FS 621 pressure bulkhead web, in accordance with Bombardier Repair Engineering Order (REO) 601R–53–61–1240, Revision D, dated October 31, 2016.

(3) Before further flight after accomplishing the modification required by paragraph (j)(2) of this AD: Revise the maintenance or inspection program, as applicable, by incorporating the inspection requirements at the threshold and repetitive inspection times specified in the in-service deviation inspection requirements (SDIR) of Bombardier REO 601R–53–61–1240, Revision D, dated October 31, 2016.

Figure 1 to Paragraph (j) of this AD – *Modification and Inspection Phase-In*

Airplane Flight Cycles as of the Effective Date of this AD	Compliance Time
For airplanes that have accumulated 35,000 total flight cycles or less	Prior to the accumulation of 40,000 total flight cycles
For airplanes that have accumulated more than 35,000 total flight cycles and less than 40,000 total flight cycles	Within 5,000 flight cycles after the effective date of this AD
For airplanes that have accumulated 40,000 total flight cycles or more	Prior to the accumulation of 45,000 total flight cycles

(k) Corrective Action

(1) If any crack is found during any inspection required by paragraph (j)(2), (l)(1), or (m) of this AD: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(2) If any crack is found during any inspection required by paragraph (j)(1) of this AD: Before further flight, repair in accordance with Bombardier REO 601R–53–61–1230, Revision F, dated November 7, 2011, or Bombardier REO 601R–53–61–1240, Revision D, dated October 31, 2016, as applicable, or using a method approved by the Manager, New York ACO Branch, FAA; TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Alternative Actions for Certain Airplanes

For airplanes on which the actions required by paragraphs (j)(1) and (j)(2) of this AD were performed before the effective date of this AD using the REOs identified in figure 2 to paragraph (l) of this AD: In lieu of accomplishing the actions required by paragraph (j) of this AD, accomplish the actions required by paragraphs (l)(1) and (l)(2) of this AD within 6,000 flight cycles after the effective date of this AD.

(1) Perform a special detailed inspection for cracking of Zone B of the RPB web, in accordance with Part B of Bombardier REO 601R–53–61–1240, Revision D, dated October 31, 2016.

(2) Revise the maintenance or inspection program, as applicable, by incorporating the inspection requirements at the threshold and repetitive inspection times specified in Part B of the SDIR of Bombardier REO 601R–53–61–1240, Revision D, dated October 31, 2016. The inspection threshold is measured from the time of incorporation of the applicable REO specified in figure 2 to paragraph (l) of this AD.

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Figure 2 to Paragraph (l) of this AD –
REOs Equivalent to Part A of REO 601R-53-61-1240

Serial Number	Bombardier REO
7029	601R-53-61-3032, Revision D, dated May 6, 2014
	601R-53-61-3059, Revision D, dated November 1, 2011
	601R-53-61-5220, Revision A, dated March 20, 2014
7033	601R-53-61-4391, dated February 6, 2012
	601R-53-61-4405, dated February 16, 2012
7054	601R-53-61-4398, Revision A, dated August 23, 2016
	601R-53-61-5801, dated August 23, 2016
7058	601R-53-61-5480, dated May 22, 2015
7060	601R-53-61-4385, Revision A, dated August 25, 2016
7206	601R-53-61-4750, dated January 15, 2013
7212	601R-53-61-5137, Revision A, dated August 25, 2016
7312	601R-53-61-5738, dated June 23, 2016
7424	601R-53-61-5295, Revision A, dated July 2, 2014
7430	601R-53-61-4950, dated June 28, 2013
7433	601R-53-61-2039, Revision A, dated August 24, 2016
7452	601R-53-61-4821, Revision A, dated February 28, 2013
	601R-53-61-4572, Revision C, dated February 27, 2013
	601R-53-61-4584, Revision A, dated February 27, 2013
7463	601R-53-61-4712, dated November 15, 2012
	601R-53-61-5369, dated October 14, 2014
7466	601R-53-61-4884, dated April 25, 2013
7468	601R-53-61-5779, Revision A, dated August 16, 2016
7476	601R-53-61-5727, Revision B, dated June 8, 2016

Serial Number	Bombardier REO
7484	601R-53-61-5040, dated October 2, 2013
	601R-53-61-5049, Revision A, dated October 9, 2013
7513	601R-53-61-5498, dated June 23, 2015
7591	601R-53-61-2360, Revision A, dated August 24, 2016
	601R-53-61-2361, dated October 11, 2007
	601R-53-61-2364, dated October 11, 2007
	601R-53-61-2368, dated October 10, 2007
	601R-53-61-2373, dated October 17, 2007
	601R-53-61-2380, dated October 20, 2007
7616	601R-53-61-5250, dated April 15, 2014
7626	601R-53-61-5377, dated November 5, 2014
	601R-53-61-5383, dated November 7, 2014
7643	601R-53-61-5076, dated October 31, 2013
	601R-53-61-5085, Revision A, dated November 11, 2013
7658	601R-53-61-4942, Revision A, dated July 8, 2013
7660	601R-53-61-5494, dated June 8, 2015
7767	601R-53-61-5207, dated March 7, 2014
	601R-53-61-5213, Revision A, dated March 14, 2014
7834	601R-53-61-4932, dated June 15, 2013
	601R-53-61-4940, Revision A, dated July 1, 2013
7852	601R-53-61-4264, Revision A, dated August 21, 2013

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(m) Alternative Actions for Airplane Serial Number 7610

For any airplane having serial number 7610: In lieu of accomplishing the actions required by paragraph (j) of this AD; within 6,000 flight cycles after the effective date of this AD, do a reinforcement of K601R36010—A at left buttock line (LBL) 27.5 and perform a special detailed inspection for cracking of the FS 621 pressure bulkhead web at LBL 27.5, in accordance with Bombardier REO 601R–53–61–5828, Revision A, dated March 16, 2017. Before further flight after accomplishing the reinforcement, or within 60 days after the effective date of this AD, whichever occurs later: Revise the maintenance or inspection program, as applicable, by incorporating the inspection requirements that include threshold and repetitive inspection times as specified in the SDIR of Bombardier REO 601R–53–61–5828, Revision A, dated March 16, 2017.

(n) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (j)(3), (l)(2), or (m) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (p)(1) of this AD.

(o) Terminating Actions for Paragraph (g) of This AD

(1) Accomplishment of the actions required by paragraph (j) or (l) of this AD terminates the requirements of paragraph (g) of this AD, for the repaired area only.

(2) Accomplishment of the actions required by paragraph (m) of this AD terminates the requirements of paragraph (g) of this AD.

(3) For airplanes on which the actions required by paragraph (j) or (l) of this AD have been done and on which the modification and inspection specified in REO 601R–53–61–1230 Revision F, dated November 7, 2011, have been done and there were no inspection findings: The actions required by paragraph (g) of this AD are terminated.

(p) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your

request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7300; fax: (516) 794–5531.

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

(ii) AMOCs approved previously for AD 2012–25–02, are approved as AMOCs for the corresponding provisions in paragraphs (g), (k), and (l) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2011–30R2, dated June 12, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0794.

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

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 514–855–5000; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on August 24, 2018.

James Cashdollar,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–19735 Filed 9–12–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0577; Airspace Docket No. 18–AAL–9]

RIN 2120–AA66

Proposed Modification of Class E Airspace; Atqasuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 1,200 feet above the surface at Atqasuk Edward Burnell Sr. Memorial Airport, Atqasuk, AK. This proposal would add exclusionary language to the legal description of the airport to ensure the safety and management of aircraft within the National Airspace System. Also, the geographic coordinates of the airport would be adjusted.

DATES: Comments must be received on or before October 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0577; Airspace Docket No. 18–AAL–9, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2244.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 1,200 feet above the surface at Atqasuk Edward Burnell Sr. Memorial Airport, AK, to support IFR operations in standard instrument approach and departure procedures at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0577; Airspace Docket No. 18–AAL–9''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 1,200 feet above the surface at Atqasuk Edward Burnell Sr. Memorial Airport, Atqasuk, AK. This action would add language to the legal description of the airport to exclude that airspace extending beyond 12 miles of the shoreline. This action is necessary to support IFR operations in standard instrument approach and departure procedures at the airport.

An editorial change also would be made to the airport's geographic coordinates to bring them up to date with FAA's aeronautical database.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Atqasuk, AK [Amended]

Atqasuk Edward Burnell Sr. Memorial Airport, AK
(Lat. 70°28′02″ N, long. 157°26′08″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Atqasuk Edward Burnell Sr. Memorial Airport; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of Atqasuk Edward Burnell Sr. Memorial Airport, excluding that airspace extending beyond 12 miles of the shoreline.

Issued in Seattle, Washington, on September 5, 2018.

Shawn M. Kozica,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–19726 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0578; Airspace Docket No. 18–AAL–10]

RIN 2120–AA66

Proposed Modification of Class E Airspace; Badami, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 1,200 feet above the surface at Badami Airport, AK. This proposal would add exclusionary language to the legal description of the airport to ensure the safety and management of aircraft within the National Airspace System. Also, the geographic coordinates of the airport would be adjusted.

DATES: Comments must be received on or before October 29, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0578; Airspace Docket No. 18–AAL–10, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information,

you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 1,200 feet above the surface at Badami Airport, AK, to support IFR operations in standard instrument approach and departure procedures at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0578; Airspace Docket No. 18–AAL–10''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 1,200 feet above the surface at Badami Airport, Badami, AK. This action would add language to the legal description of the airport to exclude that airspace extending beyond 12 miles of the shoreline. This action is necessary to support IFR operations in standard instrument approach and departure procedures at the airport.

An editorial change also would be made to the airport's geographic coordinates to bring them up to date with the FAA's aeronautical database.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Badami, AK [Amended]

Badami, Badami Airport, AK
(Lat. 70°08′15″ N, long. 147°01′50″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Badami Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of Badami Airport, AK, excluding that airspace extending beyond 12 miles of the shoreline.

Issued in Seattle, Washington, on September 5, 2018.

Shawn M. Kozica,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–19728 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 20 and 720

[Docket No. FDA–2018–N–1622]

RIN 0910–AH69

Public Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is proposing to amend its public information regulations. The proposed rule will revise the current regulations to incorporate changes made to the Freedom of Information Act (FOIA) by the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act) and the FOIA Improvement Act of 2016 (FOIA Improvement Act). Additionally, the proposed rule will update the current regulations to reflect changes to the organization, to make the FOIA process easier for the public to navigate, and to make provisions clearer.

DATES: Submit either electronic or written comments on this proposed rule by November 13, 2018. See section VI of this document for the proposed effective date of a final rule based on this document.

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 November 13, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 13, 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–1622 for ''Public Information; Proposed Rule.'' Received comments, those received 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: Sarah B. Kotler, Office of the Commissioner, Office of the Executive Secretariat, Food and Drug Administration, 5630 Fishers Lane, Rm. 1050, Rockville, MD 20857, 301–796–3900, *FDAFOIA@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Proposed Rule

FDA is proposing to amend FDA's public information regulations. The regulations are being amended to incorporate changes made to FOIA by the OPEN Government Act (Pub. L. 89–487) and the FOIA Improvement Act (Pub. L. 114–185). Additionally, the proposed rule will update the regulations to reflect changes to the organization, to make the FOIA process easier for the public to navigate, and to make certain provisions clearer. Taken together, these changes will enhance transparency for the public with regard to FDA activities.

B. Summary of the Major Provisions of the Proposed Rule

The proposed amendments to FDA's public information regulations bring the Agency's regulations in line with statutory amendments to the FOIA, update cross references to other statutes and parts of the Agency's regulations, and clarify certain provisions with minor editorial updates.

C. Legal Authority

We are proposing these amendments based on our authority under FOIA (5 U.S.C. 552) and section 701(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(a)). These proposed amendments would allow FDA to more efficiently use our resources to provide information to the public.

D. Costs and Benefits

Although FDA is currently implementing the requirements of the OPEN Government Act and the FOIA Improvement Act in FOIA processing as standard practice, the requirements are not currently reflected in part 20 (21 CFR part 20). The revisions made by this proposed rule are intended to incorporate all current FOIA requirements into the existing regulations. Because the Agency has already adopted many of these requirements, we anticipate no additional costs or benefits from this rulemaking.

II. Table of Abbreviations and Acronyms Commonly Used in This Document

Abbreviation/ Acronym	What it means
DFOI	Division of Freedom of Information.
FOIA	Freedom of Information Act.
FOIA Improvement Act.	FOIA Improvement Act of 2016.
OGIS	Office of Government Information Services.
OPEN Government Act.	Openness Promotes Effectiveness in our National Government Act of 2007.

III. Background

The FOIA is a law that gives the public the right to access information from the Federal government. There is a presumption that government records must be released under FOIA unless they are subject to one of nine FOIA exemptions. FDA's regulations for the implementation of the FOIA are in part 20. The FOIA Improvement Act specifically requires Agencies to review their FOIA regulations and update their regulations for the disclosure of records in accordance with its amendments.

IV. Legal Authority

We are proposing these amendments based on our authority under FOIA (5 U.S.C. 552) and section 701(a) of the FD&C Act (21 U.S.C. 371(a)). These proposed amendments would allow FDA to more efficiently use our resources to provide information to the public.

V. Description of the Proposed Rule

We are proposing to amend provisions of part 20 regarding the Agency's public information regulations. Once effective, the amendments contained in the proposed rule would apply to all FOIA requests currently pending with, or received in the future by, FDA.

- The proposed amendments to § 20.20 would require FDA to withhold information under the FOIA only if the Agency reasonably foresees that disclosure would harm an interest protected by an exemption or disclosure is prohibited by law. The proposed rule further amends this provision to require FDA to establish procedures for identifying records of general interest or use to the public that are appropriate for public disclosure, and for posting such records in a publicly accessible electronic format. These changes will promote transparency by reducing the amount of information that will be withheld when the Agency has discretion to determine what will be withheld under the FOIA exemptions, and will make release of information more efficient through the use of information technology. These amendments are required by the FOIA Improvement Act, and are currently part of FDA's FOIA policy and procedures.
- The proposed amendment to § 20.22 would require FDA to indicate the exemption(s) under which information has been deleted at the site of the deletion. This change will inform requesters of the legal bases under which information has been withheld from Agency records, which promotes transparency. This change is required by the OPEN Government Act and was adopted by the Agency for FOIA processing as of the effective date of the OPEN Government Act.
- The proposed amendment to § 20.26 would require FDA to make available for public inspection in an electronic format records that have been requested three or more times under the FOIA. This change codifies the long-standing Department of Justice policy of federal agencies posting records that have been requested three or more times. The purpose of this change is to proactively release records to the public without the need for submission of additional FOIA requests. This change is required by the FOIA Improvement Act.
- The proposed amendment to § 20.33 would require FDA to offer the services of their FOIA Public Liaison and notify requesters of the services provided by the Office of Government Information Services (OGIS) when responding to FOIA requests. This change provides requesters with additional avenues for resolving FOIA-related disputes beyond the appeals process. This provision is required by the FOIA Improvement Act.
- The proposed amendment to § 20.40 updates the provision to include reference to the Agency's online FOIA submission portal, which has been online since June 2012.
- The proposed amendments to § 20.41 would require that when FDA extends the time limit to respond to requests by more than 10 additional working days, FDA must notify the requester of the right to seek dispute resolution services from the FOIA Public Liaison and OGIS. This change provides requesters with additional avenues for resolving FOIA-related disputes beyond the appeals process.

We further amended the provision to provide that if a court determines that exceptional circumstances exist, the Agency's failure to comply with a time limit shall be excused for the length of time provided by the court order. These changes are required by the FOIA Improvement Act. The revised provision further clarifies that the Agency may toll the response period once to seek more information from the requester, and more than once (if necessary) to clarify fee assessments. This revision is required by the OPEN Government Act.

- The proposed amendment to § 20.44 updates the title of the Agency official making determinations regarding requests for expedited processing.
- The proposed amendments to § 20.45 would modify the fee schedule to prohibit the Agency from assessing fees if the Agency fails to comply with time limits to respond and there are no unusual or exceptional circumstances that apply to the processing of the request. If unusual circumstances apply, these amendments establish a process by which the Agency can work with the requester to effectively limit the scope of the request. These changes will provide an incentive to the Agency to process requests as efficiently as possible, and will provide fee relief to requesters who do not receive FOIA responses in a timely manner. These provisions are required by the OPEN Government Act. Further amendments to this provision clarify how fees are calculated.
- The proposed rule amends § 20.49(c) to require full and partial denial letters to include contact information for the FOIA Public Liaison and OGIS, and to increase the time for transmittal of an appeal to 90 business days. We also made technical revisions to § 20.49(a) to update the position title of the Agency FOIA Officer, and to § 20.49(c) to update the position title of the person to whom appeals shall be addressed. These changes provide requesters with additional avenues for resolving FOIA-related disputes beyond the appeals process and provide requesters with additional time to decide whether to pursue an appeal. These amendments are required by the FOIA Improvement Act.
- The proposed rule amends § 20.61(e)(2) to allow 10 days from the date of the notice for submitters of trade secrets or confidential commercial information to object to disclosure. This change will bring the Agency in line with departmental regulations.
- The proposed rule amends § 20.62 to prohibit the application of the deliberative process privilege of Exemption 5 of the FOIA to records created 25 years or more before the date on which the records were requested. This change will increase transparency by requiring the Agency to release information that could otherwise fall within the deliberative process privilege of the Exemption. This amendment is required by the FOIA Improvement Act.
- The amendment to § 20.82 clarifies that the discretionary disclosure standard outlined in that provision will guide the Agency's determinations of whether the Agency reasonably foresees that a disclosure of information would harm an interest protected by an exemption or disclosure is prohibited by law as required in administering § 20.20.
- The amendment to § 20.85 updates the statutory references.
- The amendment to § 20.86 clarifies that the list of proceedings subject to the provision is not exclusive.
- The amendments to § 20.88 clarify that the provisions also apply to local officials and remove references to position titles that no longer exist.
- The amendments to § 20.89 remove references to position titles that no longer exist.
- The amendments to § 20.100 update the regulatory cross-references.
- The amendment to § 20.120 updates the contact information for the Agency's reading rooms.
- The amendment to 21 CFR 720.8 revises the request for confidentiality of the identity of a cosmetic ingredient provision for consistency with FDA's disclosure regulation at § 20.29.

VI. Proposed Effective Date

FDA proposes that any final rule that issues based on this proposal become effective 30 days after the final rule publishes in the **Federal Register**.

VII. Preliminary Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed revisions do not impose any burdens upon FOIA requesters, including those that might be small entities, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $150 million, using the most current (2017) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

We expect to incur negligible costs associated with implementing this rule. These costs result from updating titles of Agency officials, providing some additional information to FOIA requesters, and compiling information for annual reports. These requirements would not require more resources from us because we would perform these actions as part of our routine practices for FOIA processing. The proposed rule, if finalized, would enhance public access to government information as required by the FOIA Improvement Act.

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

X. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule does not contain policies that 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. Accordingly, we conclude that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively concluded that the rule does not contain policies that would 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. Accordingly, we conclude that a tribalism summary impact statement is not required.

List of Subjects

21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

21 CFR Part 720

Confidential business information, Cosmetics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR parts 20 and 720 be amended as follows:

PART 20—PUBLIC INFORMATION

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

Authority: 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1.

■ 2. Revise § 20.20 to read as follows:

§ 20.20 Policy on disclosure of Food and Drug Administration records.

(a) The Food and Drug Administration (FDA) will make the fullest possible disclosure of records to the public, consistent with the rights of individuals to privacy, the property rights of persons in trade secrets and confidential commercial or financial information, and the need for the Agency to promote frank internal policy deliberations and to pursue its regulatory activities without disruption.

(b) Except where specifically exempt pursuant to the provisions of this part, all FDA records shall be made available for public disclosure. FDA will make discretionary disclosures of records or information exempt from disclosure under the provisions of this part whenever disclosure would not foreseeably harm an interest protected by an exemption pursuant to this part. This provision does not require disclosure of information that is prohibited from disclosure by law.

(c) In accordance with the FOIA Improvement Act of 2016 (Pub. L. 114–185), FDA will establish procedures for identifying records of general interest or use to the public that are appropriate for public disclosure, and for posting and indexing such records in a publicly accessible electronic format.

(d) Except as provided in paragraph (e) of this section, all nonexempt records shall be made available for public disclosure upon request regardless of whether any justification or need for such records have been shown.

(e) ''Record'' and any other term used in this section in reference to information includes any information that would be an Agency record subject to the requirements of this part when maintained by the Agency in any format, including an electronic format.

■ 3. In § 20.22, add paragraph (b)(3) to read as follows:

§ 20.22 Partial disclosure of records.

* * * * *

(b) * * *

(3) The exemption(s) under which the information has been deleted shall be noted at the site of the deletion.

■ 4. In § 20.26, revise the section heading and paragraph (a)(4) to read as follows:

§ 20.26 Electronic availability and indexes of certain records.

(a) * * *

(4) Records that have been released to any person in response to a Freedom of Information request and that the Agency has determined have become, or are likely to become, the subject of subsequent requests for substantially the same records or that have been requested three or more times.

* * * * *

■ 5. In § 20.33, add paragraph (c) to read as follows:

§ 20.33 Form or format of response.

* * * * *

(c) Response letters shall contain contact information for the FOIA Public Liaison and the Office of Government Information Services as required by the FOIA Improvement Act of 2016 (Pub. L. 114–185).

■ 6. In § 20.40, revise paragraph (a) to read as follows:

§ 20.40 Filing a request for records.

(a) All requests for Food and Drug Administration records shall be made in writing by mailing or delivering the request to the Freedom of Information Staff at the address on the Agency's website at *https://www.fda.gov* or by faxing it to the fax number listed on the Agency's website at *https://www.fda.gov,* or by submission through the Agency's online FOIA submission portal at *https://www.fda.gov.* All requests must contain the postal address and telephone number of the requester and the name of the person responsible for payment of any fees that may be charged.

* * * * *

■ 7. In § 20.41, revise paragraphs (b)(3)(i)(A) and (b)(4), and add paragraphs (b)(5) and (d) to read as follows:

§ 20.41 Time limitations.

* * * * *

(b) * * *

(3)(i) * * *

(A) The Agency may provide for an extension of up to 10 working days by providing written notice to the requester setting out the reasons for the extension and the date by which a determination is expected to be sent. In the written notice, the Agency will inform the requester of the right to contact the Freedom of Information Act Public Liaison and to seek dispute resolution services from the Office of Government Information Services.

* * * * *

(4) The Agency may contact the requester for clarification about the request or regarding fee assessment. The Agency may toll the 20-day period as follows:

(i) One time while it is awaiting a response from the requester regarding clarification that it has reasonably requested from the requester; and

(ii) One or more times while the Agency is awaiting a response from the requester regarding fee assessment.

(5) If any record is denied, the letter shall state the right of the person requesting such records to appeal any

adverse determination to the Deputy Agency Chief Freedom of Information Act Officer, Department of Health and Human Services, in accordance with the provisions of 45 CFR 5.62.

* * * * *

(d) If a court determines that exceptional circumstances exist, as defined by the Freedom of Information Act, the Agency's failure to comply with a time limit shall be excused for the length of time provided by the court order.

■ 8. In § 20.44, revise paragraph (e) to read as follows:

§ 20.44 Expedited processing.

* * * * *

(e) The Director, Division of Freedom of Information, (or Delegatee) will determine whether to grant a request for expedited processing within 10 days of receipt by the Division of Freedom of Information of all information required to make a decision.

* * * * *

■ 9. In § 20.45, revise paragraphs (a)(1) through (3), add paragraph (b)(7), and revise paragraphs (c)(1) and (2) to read as follows:

§ 20.45 Fees to be charged.

(a) * * *

(1) *Commercial use request.* If the request is for a commercial use, the Food and Drug Administration will charge for the costs of search, review, and duplication. The Agency shall not assess search fees if the Agency fails to comply with any time limit, as described in § 20.41, if no unusual or exceptional circumstances apply to the processing of the request. If unusual circumstances, as outlined in § 20.41, apply and more than 5,000 pages are necessary to respond to the request, the Food and Drug Administration may charge search fees if timely written notice has been made to the requester and the Agency has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request.

(2) *Educational and scientific institutions and news media.* If the request is from an educational institution or a noncommercial scientific institution, operated primarily for scholarly or scientific research, or a representative of the news media, and the request is not for a commercial use, the Food and Drug Administration will charge only for the duplication of documents. Also, the Food and Drug Administration will not charge the copying costs for the first 100 pages of duplication (or its cost equivalent of other media). The Agency shall not assess duplication fees if the Agency fails to comply with any time limit, as described in § 20.41, if no unusual or exceptional circumstances apply to the processing of the request. If unusual circumstances, as outlined in § 20.41, apply and more than 5,000 pages are necessary to respond to the request, the Food and Drug Administration may charge duplication fees if timely written notice has been made to the requester and the Agency has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request.

(3) *Other requests.* If the request is not the kind described in paragraph (a)(1) or (2) of this section, then the Food and Drug Administration will charge only for the search and the duplication. Also, the Food and Drug Administration will not charge for the first 2 hours of search time or for the copying costs of the first 100 pages of duplication (or the cost equivalent of other media). The Agency shall not assess search fees if the Agency fails to comply with any time limit, as described in § 20.41, if no unusual or exceptional circumstances apply to the processing of the request. If unusual circumstances, as outlined in § 20.41, apply and more than 5,000 pages are necessary to respond to the request, the Food and Drug Administration may charge search fees if timely written notice has been made to the requester and the Agency has discussed with the requester via written mail, electronic mail, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request.

* * * * *

(b) * * *

(7) Requesters may contact Agency Freedom of Information Act staff or the Freedom of Information Act Public Liaison to assist in reformulating a request to meet their needs at lower cost.

* * * * *

(c) * * *

(1) *Manual searching for or reviewing of records.* When the search or review is performed by employees at grade GS–1 through GS–8 (or equivalent), an hourly rate based on the salary of a GS–5, step 7, employee; when done by a GS–9 through GS–14 (or equivalent), an hourly rate based on the salary of a GS–12, step 4, employee; and when done by a GS–15 or above (or equivalent), an hourly rate based on the salary of a GS–15, step 7, employee. In each case, the hourly rate will be computed by taking the current hourly rate for the specified grade and step in the General Schedule Locality Pay Table for the Locality of Washington-Baltimore-Northern Virginia, DC–MD–VA–WV–PA, adding 16 percent of that rate to cover benefits, and rounding to the nearest whole dollar. When a search involves employees at more than one of these levels, the Food and Drug Administration will charge the rate appropriate for each.

(2) *Electronic searching.* Charges for the time spent by the operator to search the computer, database or network, including development of any specialized programming required to perform the search, at the rate given in paragraph (c)(1) of this section plus the cost of any materials.

* * * * *

■ 10. In § 20.49, revise paragraphs (a) and (c) and remove paragraph (d).

The revisions read as follows:

§ 20.49 Denial of a request for records.

(a) A denial of a request for records, in whole or in part, shall be signed by the Director, Division of Freedom of Information, or other official who has been delegated the authority to release or withhold records.

* * * * *

(c) A letter denying a request for records, in whole or in part, shall state the reasons for the denial and shall state that an appeal may be transmitted to the Deputy Agency Chief Freedom of Information Act Officer, Department of Health and Human Services, within 90 calendar days from the date of the adverse determination, in accordance with 45 CFR 5.61. The Agency will also make a reasonable effort to include in the letter an estimate of the volume of the records denied, unless providing such an estimate would harm an interest protected by an exemption under the Freedom of Information Act. This estimate will ordinarily be provided in terms of the approximate number of pages or some other reasonable measure. This estimate will not be provided if the volume of records denied is otherwise indicated through deletions on records disclosed in part. The letter will also include contact information for the Freedom of Information Act Public Liaison and the Office of Government Information Services.

■ 11. In § 20.61, revise paragraph (e)(2) to read as follows:

§ 20.61 Trade secrets and commercial or financial information which is privileged or confidential.

* * * * *

(e) * * *

(2) The submitter has 10 working days from the date of the notice to object to disclosure of any part of the records and to state all bases for its objections. Division of Freedom of Information may extend this period as appropriate and necessary.

* * * * *

■ 12. Revise § 20.62 to read as follows:

§ 20.62 Inter- or intra-agency memoranda or letters.

Inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an Agency in litigation with the Food and Drug Administration may be withheld from public disclosure except that factual information that is reasonably segregable in accordance with the rule established in § 20.22 is available for public disclosure. The deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.

■ 13. In § 20.82, revise paragraph (a) to read as follows:

§ 20.82 Discretionary disclosure by the Commissioner.

(a) Except as provided in paragraph (b) of this section, the Commissioner may, in his or her discretion, disclose part or all of any Food and Drug Administration (FDA) record that is otherwise exempt from disclosure pursuant to subpart D of this part. As set forth in § 20.20(b) FDA shall make discretionary disclosures of records or information exempt from disclosure under the provisions of this part whenever disclosure would not foreseeably harm an interest protected by an exemption pursuant to this part. Specifically, FDA shall exercise its discretion to disclose such records whenever it determines that such disclosure is in the public interest, will promote the objectives of the Freedom of Information Act and the Agency, and is consistent with the rights of individuals to privacy, the property rights of persons in trade secrets, and the need for the Agency to promote frank internal policy deliberations and to pursue its regulatory activities without disruption.

* * * * *

■ 14. Revise § 20.85 to read as follows:

§ 20.85 Disclosure to other Federal government departments and agencies.

Any Food and Drug Administration (FDA) record otherwise exempt from public disclosure may be disclosed to other Federal government departments and agencies, except that trade secrets and confidential commercial or financial information prohibited from disclosure by 21 U.S.C. 331(j), 21 U.S.C. 360j(c), 21 U.S.C. 360ll(d), 21 U.S.C. 360nn(e) and 21 U.S.C. 387f(c) may be released only as provided by those sections. Any disclosure under this section shall be pursuant to a written agreement that the record shall not be further disclosed by the other department or Agency except with the written permission of the FDA.

■ 15. Revise § 20.86 to read as follows:

§ 20.86 Disclosure in administrative or court proceedings.

Data and information otherwise exempt from public disclosure may be revealed in Food and Drug Administration (FDA) administrative proceedings, such as those pursuant to parts 10, 12, 13, 14, 15, 17, and 19 of this chapter or court proceedings, where data or information are relevant. The FDA will take appropriate measures, or request that appropriate measures be taken, to reduce disclosure to the minimum necessary under the circumstances.

■ 16. In § 20.88, revise paragraphs (d)(1) introductory text, (d)(1)(i), (d)(1)(ii)(B) and (C), (d)(2), and (e)(1) and (3) to read as follows:

§ 20.88 Communications with State and local government officials.

* * * * *

(d)(1) The Commissioner of Food and Drugs, or any other officer or employee of the Food and Drug Administration whom the Commissioner may designate to act on his or her behalf for the purpose, may authorize the disclosure of confidential commercial information submitted to the Food and Drug Administration, or incorporated into Agency-prepared records, to State and local government officials as part of cooperative law enforcement or regulatory efforts, provided that:

(i) The State or local government agency has provided both a written statement establishing its authority to protect confidential commercial information from public disclosure and a written commitment not to disclose any such information provided without the written permission of the sponsor or written confirmation by the Food and Drug Administration that the information no longer has confidential status; and

(ii) * * *

(B) Disclosure would be in the interest of public health by reason of the State or local government's possessing information concerning the safety, effectiveness, or quality of a product or information concerning an investigation, or by reason of the State or local government being able to exercise its regulatory authority more expeditiously than the Food and Drug Administration; or

(C) The disclosure is to a State or local government scientist visiting the Food and Drug Administration on the Agency's premises as part of a joint review or long-term cooperative training effort authorized under section 708 of the Federal Food, Drug, and Cosmetic Act, the review is in the interest of public health, the Food and Drug Administration retains physical control over the information, the Food and Drug Administration requires the visiting State or local government scientist to sign a written commitment to protect the confidentiality of the information, and the visiting State or local government scientist provides a written assurance that he or she has no financial interest in the regulated industry of the type that would preclude participation in the review of the matter if the individual were subject to the conflict of interest rules applicable to the Food and Drug Administration advisory committee members under § 14.80(b)(1) of this chapter. Subject to all the foregoing conditions, a visiting State or local government scientist may have access to trade secret information, entitled to protection under section 301(j) of the Federal Food, Drug, and Cosmetic Act, in those cases where such disclosures would be a necessary part of the joint review or training.

(2) Except as provided under paragraph (d)(1)(ii)(C) of this section, this provision does not authorize the disclosure to State and local government officials of trade secret information concerning manufacturing methods and processes prohibited from disclosure by section 301(j) of the Federal Food, Drug, and Cosmetic Act, unless pursuant to an express written authorization provided by the submitter of the information.

* * * * *

(e)(1) The Commissioner of Food and Drugs, or any other officer or employee of the Food and Drug Administration whom the Commissioner may designate to act on his or her behalf for the purpose, may authorize the disclosure to, or receipt from, an official of a State or local government agency of nonpublic, predecisional documents concerning the Food and Drug Administration's or the other government agency's regulations or other regulatory requirements, or other nonpublic information relevant to either agency's activities, as part of efforts to improve Federal-State and/or Federal-local uniformity, cooperative regulatory activities, or implementation of Federal-

State and/or Federal-local agreements, provided that:

(i) The State or local government agency has the authority to protect such nonpublic documents from public disclosure and will not disclose any such documents provided without the written confirmation by the Food and Drug Administration that the documents no longer have nonpublic status; and

(ii) The Commissioner or his or her designee makes the determination that the exchange is reasonably necessary to improve Federal-State and/or Federal-local uniformity, cooperative regulatory activities, or implementation of Federal-State and/or Federal-local agreements.

* * * * *

(3) For purposes of this paragraph, the term official of a State or local government agency includes, but is not limited to, an agent contracted by the State or local government, and an employee of an organization of State or local officials having responsibility to facilitate harmonization of State or local standards and requirements in the Food and Drug Administration's areas of responsibility. For such officials, the statement and commitment required by paragraph (e)(1)(i) of this section shall be provided by both the organization and the individual.

■ 17. In § 20.89, revise paragraph (d) to read as follows:

§ 20.89 Communications with foreign government officials.

* * * * *

(d)(1) The Commissioner of Food and Drugs, or any other officer or employee of the Food and Drug Administration whom the Commissioner may designate to act on his or her behalf for the purpose, may authorize the disclosure to, or receipt from, an official of a foreign government agency of nonpublic, predecisional documents concerning the Food and Drug Administration's or the other government agency's regulations or other regulatory requirements, or other nonpublic information relevant to either agency's activities, as part of cooperative efforts to facilitate global harmonization of regulatory requirements, cooperative regulatory activities, or implementation of international agreements, provided that:

(i) The foreign government agency has the authority to protect such nonpublic documents from public disclosure and will not disclose any such documents provided without the written confirmation by the Food and Drug Administration that the documents no longer have nonpublic status; and

(ii) The Commissioner or his or her designee makes the determination that the exchange is reasonably necessary to facilitate global harmonization of regulatory requirements, cooperative regulatory activities, or implementation of international agreements.

(2) Any exchange under this section of nonpublic documents does not invoke the rule established in § 20.21 that such records shall be made available to all members of the public.

* * * * *

■ 18. In § 20.100, revise paragraph (c)(6), remove and reserve paragraphs (c)(20) and (21), and add paragraphs (c)(47) through (51).

The revision and additions read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(6) Information on thermal processing of low-acid foods packaged in hermetically sealed containers, in §§ 108.25(k) and 108.35(*l*) of this chapter.

* * * * *

(47) Status reports of postmarketing study commitments in §§ 314.81(b)(2)(vii)(b) and 601.70(e) of this chapter.

(48) Postmarket notification relating to shortages in § 600.82 of this chapter.

(49) Postmarket notification relating to shortages in §§ 310.306 and 314.81 of this chapter.

(50) Minor Species/Minor Use designation, in § 516.52 of this chapter.

(51) Minor Species drug index listing, in § 516.171 of this chapter.

■ 19. In § 20.120, revise paragraph (a) to read as follows: § 20.120 Records available in Food and Drug Administration Public Reading Rooms.

(a) The Freedom of Information Staff and the Dockets Management Staff Public Reading Room are located at the same address. Both are located in Rm. 1061, 5630 Fishers Lane, Rockville, MD 20852. The telephone number for the Docket Management Staff is 240–402–7500; the telephone number for the Freedom of Information Staff's Public Reading Room is located at the address on the Agency's website at *https://www.fda.gov.* Both public reading rooms are open from 9 a.m. to 4 p.m., Monday through Friday, excluding legal public holidays.

* * * * *

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT COMPOSITION STATEMENTS

■ 20. The authority citation for part 720 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 361, 362, 371, 374.

■ 21. In § 720.8, revise paragraphs (e) and (g) to read as follows:

§ 720.8 Confidentiality of statements.

* * * * *

(e) If, after receiving all of the data that are necessary to make a determination about whether the identity of an ingredient is a trade secret, FDA tentatively decides to deny the request, the Agency will inform the person requesting trade secrecy of its tentative determination in writing. FDA will set forth the grounds upon which it relied in making this tentative determination. The petitioner may submit, within 60 days from the date of receipt of the written notice of the tentative denial, additional relevant information and arguments and request that the Agency reconsider its decision in light of both the additional material and the information that it originally submitted.

* * * * *

(g) A final determination that an ingredient is not a trade secret within the meaning of § 20.61 of this chapter constitutes final Agency action that is subject to judicial review under 5 U.S.C. Chapter 7. If suit is brought within 30 calendar days after such a determination, FDA will not disclose the records involved or require that the disputed ingredient or ingredients be disclosed in labeling until the matter is finally determined in the courts. If suit is not brought within 30 calendar days after a final determination that an ingredient is not a trade secret within the meaning of § 20.61 of this chapter, the records involved will be available for public disclosure in accordance with part 20 of this chapter.

Dated: September 7, 2018.

Scott Gottlieb,

Commissioner of Food and Drugs.

[FR Doc. 2018–19864 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 807, 812, and 814

[Docket No. FDA–2018–N–0628]

RIN 0910–AH48

Medical Device Submissions: Amending Premarket Regulations That Require Multiple Copies and Specify Paper Copies To Be Allowed in Electronic Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is proposing to amend requirements for medical device premarket submissions to remove paper and multiple copies and replace them with requirements for a single submission in electronic format. If finalized, this action would reduce the number of copies in electronic format required, thus improving and making more efficient the FDA's premarket submission program for medical devices. This action is part of FDA's implementation of Executive Orders (EOs) 13771 and 13777. Under these EOs, FDA is comprehensively reviewing existing regulations to identify opportunities for repeal, replacement, or modification that will result in meaningful burden reduction while allowing the Agency to achieve our public health mission and fulfill statutory obligations.

DATES: Submit either electronic or written comments on this proposed rule by December 12, 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 December 12, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 12, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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–0628 for ''Medical Device Submissions: Amending Premarket Regulations that Require Multiple Copies and Specify Paper Copies to be Allowed in Electronic Format.'' 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: Diane Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5424, Silver Spring, MD 20993, 301–796–6559, email: *Diane.Garcia@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

This proposed rule would amend regulations on medical device premarket submissions to remove requirements for paper and multiple copies and replace them with requirements for a single submission in electronic format to improve the FDA's premarket submission program for medical devices and to create a more efficient submission program. Because a medical device premarket submission in electronic format is easily reproducible,

and the requirement for multiple copies, whether in electronic format or paper form, is no longer necessary, FDA believes it is beneficial to the public to limit any burden and expense to submitters caused by requiring additional copies.

II. Background

On February 24, 2017, E.O. 13777, ''Enforcing the Regulatory Reform Agenda'' (*https://www.gpo.gov/fdsys/pkg/FR-2017-03-01/pdf/2017-04107.pdf,* 82 FR 12285 (March 1, 2017)) was issued. One of the provisions in the E.O. requires Agencies to evaluate existing regulations and make recommendations to the Agency head regarding their repeal, replacement, or modification, consistent with applicable law. As part of this initiative, FDA is updating regulations as specified in this proposed rule.

FDA's current medical device regulations that require multiple copies and paper submissions predate the authority provided to FDA in the Federal Food, Drug, and Cosmetic Act (FD&C Act) to require electronic submissions (see 21 CFR parts 807, 812, and 814 and section 745A of the FD&C Act (21 U.S.C. 379k–1)).

The FD&C Act was amended by the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144) (see section 745A(b) of the FD&C Act and section 1136 of FDASIA). The amendments in FDASIA provided that after FDA issued guidance on the submission of electronic copies (eCopies), the submission of eCopies will be required for presubmissions and submissions and any supplements to these presubmissions and submissions for medical devices. (For sections requiring submission, see sections 510(k), 513(f)(2)(A), 515(c), (d) and (f), 520(g) and (m), or 564 of the FD&C Act (21 U.S.C. 360(k), 360c(f)(2)(A), 360e(c), (d) and (f), 360j(g) and (m), and 360bbb–3 or section 351 of the Public Health Service Act (42 U.S.C. 262).) Congress granted explicit statutory authorization to FDA to implement eCopy requirements by providing through guidance the standards and criteria for waivers and exemptions (section 745(b)(1) and (2) of the FD&C Act).

On January 2, 2013, FDA published the guidance entitled ''eCopy Program for Medical Device Submissions'' (eCopy guidance). The issuance of the eCopy guidance marked the beginning of the eCopy program. The 2013 guidance was superseded by an updated guidance of the same title issued on December 3, 2015. The eCopy guidance recommends that one paper copy should be submitted, and that any additional copies required under the regulations be submitted as eCopies. While the eCopy guidance does not change the overall number of copies required for any submission, the guidance states that eCopies should be provided in lieu of some of the paper copies. The guidance also outlines other requirements for eCopies. The eCopy guidance provides instructions for the processing and technical standards for eCopies based on FDA's experience with the program (Ref. 1).

In 2017, the FD&C Act was amended by the FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52) (see section 745A(b) of the FD&C Act and section 207 of FDARA). The amended provisions in the FD&C Act require presubmissions and submissions, any supplements to such presubmissions or submissions for devices, and any appeals of action taken with respect to such presubmissions or submissions, including devices under the Public Health Service Act to be submitted solely in electronic format as specified by FDA in guidance (section 745A(b)(3) of the FD&C Act).

III. Legal Authority

FDA is issuing this proposed rule from the same authority under which FDA initially issued these regulations: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360h–360j, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381, 382, 393; 42 U.S.C. 216, 241, 262, 263b–263n, 264, 271. In addition, section 745A of the FD&C Act and section 207 of FDARA provide FDA authority with respect to electronic format for submissions and any appeals, and section 701(a) of the FD&C Act (21 U.S.C. 371(a)) grants FDA general rulemaking authority to issue regulations for the efficient enforcement of the FD&C Act.

IV. Description of the Proposed Rule

We are proposing to revise FDA's regulations for devices to remove the requirements for multiple copies of submissions and to instead require one electronic version. The affected submissions include premarket notification submissions (510(k) submissions) (21 CFR 807.90), including confidentiality of information certification (21 CFR 807.95); investigational device exemption applications (21 CFR 812.20); premarket approval applications (PMA) (21 CFR 814.20), including PMA supplements (21 CFR 814.39); and humanitarian device exemption applications (21 CFR 814.104). This proposed rule also affects submissions for Center for Biologics Evaluation and Research (CBER) regulated devices.

Another amendment that the proposed rule will make, if finalized, is to the sections of the regulations that identify FDA's mailing addresses for submissions. Current regulations include specific mailing addresses for submissions. If a mailing address needs to be updated, this necessitates an amendment to the regulations to update that address. A simpler and more efficient means of providing current mailing addresses is to create a website that can list current mailing addresses. Any changes to mailing addresses can be added to the website without the need for an amendment to the regulations. This proposed rule will amend the regulations to remove the mailing addresses for submissions and replace those addresses with a website address for the Center for Devices and Radiological Health (CDRH) and CBER.

The submission of an eCopy is separate and distinct from FDA's electronic submission programs (eSubmitter), which include the Electronic Submission Gateway (ESG) and CDRH's 510(k) eSubmissions Pilot Program (79 FR 24732, May 1, 2014). Nevertheless, FDA considers both to be submissions in electronic format. While eCopy provides for submissions to be in electronic format, the eCopy submissions must still be mailed to FDA. By contrast, eSubmitter allows for electronic submissions to be transmitted over the internet. FDA has been moving toward transforming all regulatory submissions from mailed copies to electronic means via the internet. Since January 1999, FDA has accepted voluntary electronic submissions through eSubmitter. FDA presently utilizes the ESG for the receipt and processing of many types of electronic regulatory submissions (Ref. 2). FDA considers eCopies, submissions copied to a CD, DVD, or flash drive and mailed to FDA, and eSubmissions, to be submissions in electronic format.

These changes are intended to improve the efficiency of the review process by allowing immediate availability of an electronic version for review, rather than relying solely on the paper version. Because a submission in electronic format is easily reproducible, the requirement for multiple copies (whether in electronic format or paper form) is no longer necessary. Furthermore, FDA believes it is beneficial to the public to limit any burdens and expenses to submitters caused by requiring additional copies.

FDA is proposing to amend current medical device regulations that require multiple copies and paper submissions

(21 CFR parts 807, 812, and 814). FDA is taking this action because the requirement for multiple copies (whether in electronic format or paper form) listed in the regulation is no longer necessary, and it is beneficial to the public to limit any burden and expense to submitters caused by requiring additional copies.

V. Proposed Effective Date

FDA is proposing that any final rule based on this proposal become effective 30 days after the date of publication of a final rule in the **Federal Register.**

VI. Economic Analysis of Impacts

We have examined the impacts of the proposed rule under E.O. 12866, E.O. 13563, E.O. 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). E.O.s 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). E.O. 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is not a significant regulatory action as defined by E.O. 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule amends the existing premarket regulations requiring multiple copies and paper submissions to electronic format submissions without imposing any new requirements, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandate's Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $150 million, using the most current (2017) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

The purpose of this proposed rule is to amend device regulations requiring that firms submit a specific number of copies with a premarket presubmission or submission to a single submission in electronic form. The proposed rule also amends all device regulations containing references to submission media (*i.e.,* paper copies) to a submission in electronic form. The amendment will produce cost savings for firms without imposing any additional regulatory burdens for submissions. Firms will incur minimal administrative costs to read and understand the rule. We expect the economic impact of this regulation to be a total net costs savings yielding positive net benefits.

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full analysis of economic impacts is available in the docket for this proposed rule (Ref. 3) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

Summary of Costs and Benefits

The proposed rule, if finalized, would amend device regulations requiring the number of copies firms must submit with a premarket presubmission or submission. The proposed rule would also amend all device regulations containing a reference to the specific form of a submission to require an electronic submission. The amendment would produce cost savings for firms without imposing any additional regulatory burdens for submissions or affecting the Agency's ability to review submissions. Firms would incur minimal administrative costs to read and understand the rule. We expect the economic impact of this regulation to be a total net costs savings yielding positive net benefits.

Table 1 summarizes the benefits, costs, and distributional effects of the proposed rule. We find that the proposed rule would result in annualized net benefits in the form of cost savings of around $2.80 million with a 3 percent discount rate and $2.71 million with a 7 percent discount rate.

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
Benefits:							
Annualized	$3.37	$1.31	$5.47	2016	7%	10 years	Benefits are cost savings.
Monetized $millions/year.	$3.37	$1.31	$5.47	2016	3%	10 years	Benefits are cost savings.
Annualized					7%		
Quantified					3%		
Qualitative							
Costs:							
Annualized	$0.67	$0.67	$0.67	2016	7%	10 years	
Monetized $millions/year.	$0.57	$0.57	$0.57	2016	3%	10 years	
Annualized					7%		
Quantified					3%		
Qualitative							
Transfers:							
Federal Annualized.					7%		
Monetized $millions/year.					3%		

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE—Continued

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
From/To	From:			To:			
Other Annualized					7%		
Monetized $millions/year.					3%		
From/To	From:			To:			

Table 2 summarizes the E.O. 13771 impacts of the proposed rule. Over an infinite time horizon, the present value of the total net costs would range from $40.01 million to $182.94 million at a 3 percent discount rate and from $15.04 million to $78.67 million at a 7 percent discount rate. Over an infinite time horizon, the total annualized net costs would range from $1.17 million to $5.33 million at a 3 percent discount rate, and range from $0.98 million to $5.15 million at a 7 percent discount rate. This proposed rule, if finalized, is considered an Executive Order 13771 deregulatory action.

TABLE 2—SUMMARY OF THE EXECUTIVE ORDER 13771 IMPACTS OF THE PROPOSED RULE OVER AN INFINITE TIME HORIZON

[2016 $ millions]

	Primary estimate (3%)	Lower bound (3%)	Upper bound (3%)	Primary estimate (7%)	Lower bound (7%)	Upper bound (7%)
Present Value of Costs	$5.01	$5.01	$5.01	$5.01	$5.01	$5.01
Present Value of Cost Savings	115.79	45.02	187.95	51.55	20.04	83.68
Present Value of Net Costs	(110.78)	(40.01)	(182.94)	(46.54)	(15.04)	(78.67)
Annualized Costs	0.15	0.15	0.15	0.33	0.33	0.33
Annualized Cost Savings	3.37	1.31	5.47	3.37	1.31	5.47
Annualized Net Costs	(3.23)	(1.17)	(5.33)	(3.04)	(0.98)	(5.15)

Note: Values in parentheses denote net negative costs (*i.e.* cost-savings).

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) and 25.34(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. Rather, it proposes to remove requirements to submit multiple paper copies of certain medical device presubmissions and submissions and to replace them with one copy in an electronic format.

IX. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in E.O. 13132. We have determined that this proposed rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the E.O. and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in E.O. 13175. We have determined that the rule does not contain policies that would 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. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XI. References

The following references are on display at Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. ''eCopy Program for Medical Device Submissions; Guidance for Industry and Food and Drug Administration Staff'' available at: *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM313794.pdf.*
2. Electronic Submission Gateway procedure for electronic regulatory submission is available at: *https://www.fda.gov/ForIndustry/ElectronicSubmissionsGateway/default.htm.*
3. Preliminary economic impacts analysis for this proposed rule available at: *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

List of Subjects

21 CFR Part 807

Confidential business information, Imports, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 812

Health records, Medical devices, Medical research, Reporting and recordkeeping requirements.

21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 807, 812, and 814 are proposed to be amended as follows:

PART 807—ESTABLISHMENT REGISTRATION AND DEVICE LISTING FOR MANUFACTURERS AND INITIAL IMPORTERS OF DEVICES

■ 1. The authority citation for part 807 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360, 360c, 360e, 360i, 360j, 371, 374, 379k–1, 381, 393; 42 U.S.C. 264, 271.

■ 2. In § 807.90, revise paragraph (a), remove and reserve paragraph (b), and revise paragraph (c).

The revisions read as follows:

§ 807.90 Format of a premarket notification submission.

* * * * *

(a)(1) For devices regulated by the Center for Devices and Radiological Health, be addressed to the current address displayed on the website *https://www.fda.gov/cdrhsubmissionaddress.*

(2) For devices regulated by the Center for Biologics Evaluation and Research, be addressed to the current address displayed on the website *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CBER/ucm385240.htm;* or for devices regulated by the Center for Drug Evaluation and Research, be addressed to the Central Document Room, Center for Drug Evaluation and Research, Food and Drug Administration, 5901–B Ammendale Rd., Beltsville, MD 20705–1266. Information about devices regulated by the Center for Biologics Evaluation and Research is available at *https://www.fda.gov/BiologicsBloodVaccines/BloodBloodProducts/ApprovedProducts/default.htm.*

(3) All inquiries regarding a premarket notification submission should be sent the address in this section or one of the current addresses displayed on the Food and Drug Administration's website.

* * * * *

(c) Be submitted as a single version in electronic format.

* * * * *

■ 3. Amend § 807.95 by revising paragraph (b)(1) introductory text to read as follows:

§ 807.95 Confidentiality of information.

* * * * *

(b) * * *

(1) The person submitting the premarket notification submission requests in the submission that the Food and Drug Administration hold as confidential commercial information the intent to market the device and submits a certification to the Commissioner:

* * * * *

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

■ 4. The authority citation for part 812 is revised to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 372, 374, 379e, 379k–1, 381, 382, 383; 42 U.S.C. 216, 241, 262, 263b–263n.

■ 5. Amend § 812.19 by revising paragraphs (a)(1) and (2) to read as follows:

§ 812.19 Addresses for IDE correspondence.

(a) * * *

(1) For devices regulated by the Center for Devices and Radiological Health, send it to the current address displayed on the website *https://www.fda.gov/cdrhsubmissionaddress.*

(2) For devices regulated by the Center for Biologics Evaluation and Research, send it to the current address displayed on the website *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CBER/ucm385240.htm.*

* * * * *

■ 6. Amend § 812.20 by revising paragraph (a)(3) to read as follows:

§ 812.20 Application.

(a) * * *

(3) A sponsor shall submit a signed ''Application for an Investigational Device Exemption'' (IDE application), together with accompanying materials in electronic format, to one of the addresses in § 812.19, and if eCopy by registered mail or by hand. Subsequent correspondence concerning an application or a supplemental application shall be submitted in electronic format and if eCopy by registered mail or by hand.

* * * * *

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

■ 7. The authority citation for part 814 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360bbb–8b, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 379k–1, 381.

■ 8. Amend § 814.20 by:

■ a. Revising paragraph (b) introductory text and paragraph (b)(2);

■ b. Removing the phrase ''of the act'' and adding in its place ''of the Federal Food, Drug, and Cosmetic Act'' in paragraphs (b)(5) introductory text, (b)(5)(i), and (b)(10);

■ c. Revising paragraph (c);

■ d. Revising paragraph (e) introductory text; and

■ e. Revising paragraphs (f) and (h)(1) and (2).

The revisions read as follows:

§ 814.20 Application.

* * * * *

(b) Unless the applicant justifies an omission in accordance with paragraph (d) of this section, a PMA shall include in electronic format:

* * * * *

(2) A table of contents that specifies the volume and page number for each item referred to in the table. A PMA shall include separate sections on nonclinical laboratory studies and on clinical investigations involving human subjects. A PMA shall be submitted as a single version. The applicant shall include information that it believes to be trade secret or confidential commercial or financial information in the PMA and identify the information that it believes to be trade secret or confidential commercial or financial information.

* * * * *

(c) Pertinent information in FDA files specifically referred to by an applicant may be incorporated into a PMA by reference. Information in a master file or other information submitted to FDA by a person other than the applicant will not be considered part of a PMA unless such reference is authorized in a record submitted to FDA by the person who submitted the information or the master file. If a master file is not referenced within 5 years after the date that it is submitted to FDA, FDA will return the master file to the person who submitted it.

* * * * *

(e) The applicant shall periodically update its pending application with

new safety and effectiveness information learned about the device from ongoing or completed studies that may reasonably affect an evaluation of the safety or effectiveness of the device or that may reasonably affect the statement of contraindications, warnings, precautions, and adverse reactions in the draft labeling. The update report shall be consistent with the data reporting provisions of the protocol. The applicant shall submit any update report in electronic format and shall include in the report the number assigned by FDA to the PMA. These updates are considered to be amendments to the PMA. The time frame for review of a PMA will not be extended due to the submission of an update report unless the update is a major amendment under § 814.37(c)(1). The applicant shall submit these reports—

* * * * *

(f) If a color additive subject to section 721 of the Federal Food, Drug, and Cosmetic Act is used in or on the device and has not previously been listed for such use, then, in lieu of submitting a color additive petition under part 71 of this chapter, at the option of the applicant, the information required to be submitted under part 71 may be submitted as part of the PMA. When submitted as part of the PMA, the information shall be submitted in electronic format. A PMA for a device that contains a color additive that is subject to section 721 of the Federal Food, Drug, and Cosmetic Act will not be approved until the color additive is listed for use in or on the device.

* * * * *

(h) * * *

(1) For devices regulated by the Center for Devices and Radiological Health, send it to the current address displayed on the website *http://www.fda.gov/cdrhsubmissionaddress.*

(2) For devices regulated by the Center for Biologics Evaluation and Research, send it to the current address displayed on the website *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CBER/ucm385240.htm.*

* * * * *

■ 9. Amend § 814.39 by revising paragraph (c)(1) to read as follows:

§ 814.39 PMA supplements.

* * * * *

(c)(1) All procedures and actions that apply to an application under § 814.20 also apply to PMA supplements except that the information required in a supplement is limited to that needed to support the change. A summary under § 814.20(b)(3) is required for only a supplement submitted for new indications for use of the device, significant changes in the performance or design specifications, circuits, components, ingredients, principles of operation, or physical layout of the device, or when otherwise required by FDA. The applicant shall submit a PMA supplement in electronic format and shall include information relevant to the proposed changes in the device. A PMA supplement shall include a separate section that identifies each change for which approval is being requested and explains the reason for each such change. The applicant shall submit additional information, if requested by FDA, in electronic format. The time frames for review of, and FDA action on, a PMA supplement are the same as those provided in § 814.40 for a PMA.

* * * * *

■ 10. Amend § 814.104 by revising paragraphs (d) introductory text and (d)(1) and (2) to read as follows:

§ 814.104 Original applications.

* * * * *

(d) *Address for submissions and correspondence.* All original HDEs, amendments and supplements, as well as any correspondence relating to an HDE, must be provided in electronic format. These materials must be sent or delivered to one of the following:

(1) For devices regulated by the Center for Devices and Radiological Health, send it to the current address found on the website *https://www.fda.gov/cdrhsubmissionaddress.*

(2) For devices regulated by the Center for Biologics Evaluation and Research, send it to the current address displayed on the website *https://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CBER/ucm385240.htm.*

* * * * *

Dated: September 7, 2018.

Scott Gottlieb,

Commissioner of Food and Drugs.

[FR Doc. 2018–19865 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0713]

RIN 1625–AA00

Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to reduce the size of the Navy Pier Southeast Safety Zone within the Chicago Harbor. This action is necessary to alleviate congestion near the Chicago Lock during regularly scheduled fireworks events. The current safety zone encompasses part of the lock restricting vessels during events. This proposed rulemaking would still prohibit persons and vessels from entering the safety zone, but would allow the lock to remain in full operation during the fireworks display. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 15, 2018.

ADDRESSES: You may submit comments identified by docket number USCG–2018–0713 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email *D09-DG-MSUChicago-Waterways@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, Purpose, and Legal Basis

The Coast Guard regularly enforces the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931 for weekly fireworks events during the boating season. The

current safety zone encompasses all waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′26.5″ N, 087°35′26.5″ W; then south to 41°53′7.6″ N, 087°35′26.3″ W; then west to 41°53′7.6″ N, 087°36′23.2″ W; then north to 41°53′26.5″ N, 087°36′24.6″ W; then east back to the point of origin (NAD 83).

The purpose of this proposed rulemaking is to reduce the size of the pre-existing safety zone to reduce congestion near the Chicago Lock. This safety zone will help ensure the safety of vessels and the navigable waters near the fireworks barge before, during, and after the scheduled events and alleviate congestion issues around the Chicago Lock. The proposed rule would not significantly change the regulatory language found in 33 CFR 165.931. The change would only reduce the size of the safety zone and update the coordinates found in 33 CFR 165.931 (a).

III. Discussion of Proposed Rule

The COTP proposes to reduce the established safety zone outlined in 33 CFR 165.931. The current safety zone encompasses all waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′26.5″ N, 087°35′26.5″ W; then south to 41°53′7.6″ N, 087°35′26.3″ W; then west to 41°53′7.6″ N, 087°36′23.2″ W; then north to 41°53′26.5″ N, 087°36′24.6″ W; then east back to the point of origin (NAD 83).

The newly proposed safety zone would ensure a safe distance for spectators. It would encompasses all waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′23.74″ N, 087°35′35.70″ W; then south to 41°53′3.95″ N, 087°35′35.11″ W; then west to 41°53′3.48″ N, 087°36′8.52″ W; then north to 41°53′23.30″ N, 087°36′9.08″ W; then east back to the point of origin (NAD 83).

IV. Regulatory Analyses

We developed this proposed 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 NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM 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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and will be enforced intermittently only for a short period of time. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port.

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 proposed rule would 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 proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42

U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone enforced intermittently. Normally such actions are 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 supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 proposes to amend 33 CFR part 165.931 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. Amend § 165.931 by revising paragraph (a) to read as follows:

§ 165.931 Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL.

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan within Chicago Harbor bounded by coordinates beginning at 41°53′23.74″ N, 087°35′35.70″ W; then south to 41°53′3.95″ N, 087°35′35.11″ W; then west to 41°53′3.48″ N, 087°36′8.52″ W; then north to 41°53′23.30″ N, 087°36′9.08″ W; then east back to the point of origin (NAD 83).

* * * * *

Dated: August 16, 2018.

Thomas J. Stuhlreyer,

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

[FR Doc. 2018–19934 Filed 9–12–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596–AD32

Locatable Minerals

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed rulemaking; request for comment.

SUMMARY: The Forest Service is requesting comments from the public regarding the need to clarify or to otherwise enhance its regulations that minimize adverse environmental impacts on National Forest System surface resources in connection with operations authorized by the United States mining laws. These rules and procedures govern prospecting, exploration, development, mining, and processing operations conducted on National Forest System lands authorized by the Mining Law of 1872, as amended, subsequent reclamation of the land, and any necessary long-term post-closure resource management. The goals of the regulatory revision are to expedite Forest Service review of certain proposed mineral operations authorized by the United States mining laws, and, where applicable, Forest Service approval of some of these proposals by clarifying the regulations, to increase consistency with the United States Department of the Interior, Bureau of Land Management (BLM) surface management regulations governing operations authorized by the United States mining laws to assist those who conduct these operations on lands managed by each agency, and to increase the Forest Service's nationwide consistency in regulating mineral operations authorized by the United States mining laws by clarifying its regulations .

DATES: Comments must be received by October 15, 2018.

ADDRESSES: Please submit comments via one of the following methods:

- *Electronically:* Go to the *Federal eRulemaking Portal: http://www.regulations.gov.* In the Search box, enter FS–2018–0052, which is the docket number for this Advanced Notice of Proposed Rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Notice link to locate this document. You may submit a comment by clicking on ''Comment Now!''
- *By hard copy:* Submit by U.S. mail to: USDA-Forest Service. Attn: Director—MGM Staff, 1617 Cole Boulevard, Building 17, Lakewood, CO 80401.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Cheryl Nabahe, Minerals and Geology Management, 202–205–0800. 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: This advance notice is intended to give the

public an opportunity to help us develop ways to address challenges that the Forest Service has encountered in regulating such operations on National Forest System lands. These comments will help the Forest Service draft proposed amendments to the agency's regulations in a way that protects National Forest System surface resources, consistent with applicable statutes authorizing such operations on National Forest System lands. The Office of Management and Budget has determined that this advance notice is significant under E.O. 12866.

Background

The Mining Law authorizes the prospecting, exploration, location, development, mining, and processing of valuable ''locatable'' mineral deposits on National Forest System lands reserved from the public domain by virtue of the Organic Administration Act, 16 U.S.C. 478, 482. ''Locatable'' minerals are base and precious metal ores, ferrous metal ores, and certain classes of industrial minerals that include, but are not limited to, gold, silver, platinum, copper, lead, zinc, magnesium, nickel, tungsten, bentonite, barite, fluorspar, uranium, and uncommon varieties of sand, gravel, and dimension stone.

In 1974, under authority granted to the Forest Service by the Organic Administration Act of 1897, 16 U.S.C. 478, 482, and 551, the Forest Service adopted regulations at 36 Code of Federal Regulation (CFR) part 252 (39 FR 31317, Aug. 28, 1974), which were later redesigated as 36 CFR part 228, subpart A (46 FR 36142, July 14, 1981), to regulate operations conducted on certain National Forest System lands under the Mining Law of 1872, as amended, 30 U.S.C. 22–54 (The Mining Law). The regulations at 36 CFR part 228, subpart A, require that all such locatable mineral prospecting, exploration, development, mining and processing operations, and associated means of access, whether occurring within or outside the boundaries of a mining claim located under the Mining Law, shall be conducted in a manner that minimizes adverse environmental effects on National Forest System surface resources.

The regulations at 36 CFR part 228 subpart A reflect the fact that the Mining Law, as amended, confers the authority, by virtue of the Organic Administration Act, to enter upon certain National Forest System lands to search for, locate, and develop valuable minerals subject to the Mining Law. Thus, the Forest Service may not prohibit locatable mineral operations on lands subject to the Mining Law that otherwise comply with applicable law, nor regulate those operations in a manner which amounts to a prohibition.

In 2005, 36 CFR part 228, subpart A, was amended to clarify when a plan of operations is required (36 CFR 228.4(a), 70 FR 32731, June 6, 2005). However, these regulations have not been significantly revised since they took effect in 1974.

Overall, the regulations at 36 CFR part 228, subpart A, have enabled the Forest Service to minimize adverse environmental effects on surface resources that could result from locatable mineral operations on National Forest System lands, via such methods as timing restrictions, reasonable mitigation measures, reclamation, and bonding. But since these regulations were promulgated in 1974, several inefficiencies and problems associated with them have become apparent to operators, members of the public, and the agency. Examples of such inefficiencies and problems include the need to clarify the process by which the Forest Service reviews certain locatable mineral operation proposals, the need to address topics such as reasonably incident use and occupancy of National Forest System lands as defined by the Surface Resources Act of 1955, 30 U.S.C. 612, a lack of administrative tools to address modifications of plans of operations and noncompliance issues, and challenges involving plans of operations including ensuring that proposed plans include their component reclamation plans and associated reclamation cost estimation. Specific recommendations to revise and update 36 CFR part 228, subpart A, have also been made in two reports: the 1999 National Research Council (NRC) publication ''Hard Rock Mining on Federal Lands'' (National Research Council. 1999. *Hardrock Mining on Federal Lands.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/9682.*); and the 2016 United States Government Accountability Office (GAO) report ''Hardrock Mining: BLM and Forest Service Have Taken Some Actions to Expedite the Mine Plan Review Process but Could Do More'' (United States Government Accountability Office. 2016. Report to the Chairman, Committee on Natural Resources, House of Representatives. Hardrock Mining: BLM and Forest Service Have Taken Some Action To Expedite the Mine Plan Review Process but Could Do More. GAO–16–165. Washington, DC: U.S. Government Accountability Office. *https://www.gao.gov/assets/680/674752.pdf*).

Many of the concerns identified by the NRC in 1999 are the same concerns the Forest Service has about 36 CFR part 228, subpart A. One example is the adequacy of the process set out in 36 CFR part 228, subpart A, for requiring operators to modify plans of operations in light of new circumstances or information, especially when needed to correct problems that have resulted in harm or threatened harm to surface resources. As examples of such new circumstances or information, the NRC's report lists ''unexpected acid drainage, problems with water balance, adequacy of approved containment structures, or discovery of impacts on wells and springs.'' The NRC was critical of the fact that 36 CFR part 228, subpart A, only allows the Forest Service to require a modification to a Plan of Operations if ''unforseen significant disturbance of surface resources'' is occurring or probable. The NRC noted that this criterion entails a retroactive inquiry instead of a proactive one allowing the Forest Service to correct whatever problems have resulted in harm or threathen harm.

The Forest Service also intends to consider the NRC's recommendation that the agency should adopt an expeditious process for reviewing proposed exploration operations affecting 5 acres or less of National Forest System lands similar to the one employed by the BLM with respect to the public lands it manages.

The Forest Service also agrees with the 2016 GAO report's conclusion that expeditious review of proposed plans of operations is often hindered by the low quality of information operators include in those plans. The Forest Service intends to consider adoption of two measures the GAO's 2016 report concludes might improve the quality of proposed plans of operations submitted for the agency's review and approval. One is to establish a uniform process in which the Forest Service encourages persons seeking to conduct locatable mineral operations that require approval of a plan of operations to meet with the appropriate local Forest Service official prior to submitting the proposed plan. This will ensure that the operator is familiar with the requirements that a proposed plan of operations must meet to be found complete. The second is for the Forest Service to ensure that all proposed plans of operations are complete before required environmental analysis of those plans begin.

In addition, the Forest Service is considering whether to amend portions of 36 CFR part 228, subpart A, to more closely correspond to 43 CFR part 3710, subpart 3715 (65 FR 37125, July 16,

1996) and 43 CFR part 3800, subpart 3809 (65 FR 70112, Nov. 21, 2000), which govern locatable mineral operations conducted on the public lands managed by the BLM, as permitted given the Forest Service's different statutory authorities. Specifically, the Forest Service contemplates increased consistency with the BLM's regulations regarding reasonably incident uses and occupancy, classification of operations (*i.e.,* casual use, notice-level, and plan of operations-level), requirements for operating on segregated or withdrawn lands, special procedures applicable when a mineral or material may be subject to sale under the Materials Act of 1947, 30 U.S.C. 601–04, rather than to appropriation under the mining laws, and noncompliance and enforcement. Increasing the consistency of the agencies' procedures and rules would benefit persons who conduct locatable mineral operations on the public lands managed by the BLM as well as on National Forest System lands managed by the Forest Service.

Pursuant to Executive Order 13817, A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals, issued December 20, 2017, the Secretary of the Interior published a list of 35 mineral commodities vital to the economic and national security of the United States for which the United States is heavily reliant on imports (83 FR 23295, May, 18, 2018). Predominantly, the critical commodities would be subject 36 CFR part 228, subpart A, if they are found on National Forest System lands which are subject to entry under the mining laws. Portions of the Executive Order direct the federal government to increase exploration for, and mining of, critical minerals (Sec. 3(b)) and to revise permitting processes to expedite exploration for, and production of, critical minerals (Sec. 3(d)) and the revision of 36 CFR part 228, subpart A, in the manner being contemplated and described in this advance notice would help achieve those ends. For example, the Forest Service is seeking to provide a more efficient process for approving exploration activities for locatable minerals, including those that also are critical commodities for purposes of Executive Order 13817. This change should enhance operators' interest in, and willingness to, conduct exploratory operations on National Forest System lands and ultimately increase the production of critical minerals, consistent with both of these sections of the Executive Order. Further, achieving the Forest Service's objectives of clarifying the requirements for submitting a proposed plan of operations or modifying such a plan and clarifying the process the Forest Service uses in receiving, reviewing, and approving a plan of operations should expedite the approval of plans of operations and derivatively actual extraction of critical minerals on National Forest System lands.

The revision of 36 CFR part 228, subpart A, also would facilitate, support, and ensure the policy objectives of Executive Order 13783, Promoting Energy Independence and Economic Growth, issued March 28, 2017, as outlined in its Section 2a. Providing a more efficient process for approving exploration activities for the energy-producing locatable minerals uranium and thorium would reduce regulatory burdens that unnecessarily encumber energy production consistent with Sec. 1(b) of the Order as well as ultimately expand the means of domestic energy production consistent with Sec. 1(c) of the Order. Increasing the clarity of requirements for submitting a proposed plan of operations or modifying such a plan along with the clarity of the process the Forest Service uses in receiving, reviewing, and approving a plan of operations would benefit and support the safe, efficient development of uranium, an important potential and current domestic energy resource, and thorium, a potential domestic energy resource, consistent with Sec. 1(b) or the Order.

Revision of the regulations at 36 CFR part 228, subpart A, will facilitate, support, and ensure the policy objectives of Executive Order 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, issued on August 15, 2017. For example, the USDA Forest Service is seeking to provide a more efficient process for approving exploration activities for the energy-producing locatable minerals uranium and thorium where that exploration will cause 5 acres or less of surface disturbance on National Forest System lands for which reclamation has not been completed. This would achieve the result of the Forest Service being a good steward of public funds by avoiding wasteful processes consistent with Section 2e of the Executive Order. Improving the quality of proposed plans of operations for uranium or thorium operations will allow more timely processing of those plans thereby giving public and private investors the confidence necessary to make funding decisions consistent with Section 2f of Executive Order 13807. While other regulatory changes under consideration as detailed in the ''Comments Requested'' portion of this advance notice applicable to uranium and thorium operations would foster the policy objectives set out in Section 2 of the Executive Order, particularly those objectives in paragraphs d, e, f, and h.

Comments Requested

The Forest Service particularly invites comment regarding challenges the public has experienced with respect to the aspects of the agency's current regulations at 36 CFR part 228, subpart A, and issues the public foresees with respect to potential amendments to these regulations, that are are relevant to the following topics.

(1) Classification of locatable mineral operations.

a. Currently, the regulations at 36 CFR part 228, subpart A, establish three classes of locatable mineral operations: Those which do not require an operator to provide the Forest Service with notice before operating, those requiring the operator to submit a notice of intent to conduct operations to the Forest Service before operating, and those requiring an operator to submit and obtain Forest Service approval of a proposed plan of operations. The operations which do not require an operator to provide notice before operating are idenitifed by 36 CFR 228.4(a)(1). Those operations include, but are not limited to, using certain existing roads, performing prospecting and sampling which will not cause significant surface resource disturbance, conducting operations which will not cause surface resource disturbance substantially different from that caused by other users of the National Forest System who are not required to obtain another type of written authorization, and conducting operations which do not involve the use of mechanized earthmoving equipment or the cutting of trees unless these operations might otherwise cause a significant disturbance of surface resources. The operations for which an operator must submit a notice of intent to the Forest Service before operating are identifed by 36 CFR 228.4(a) as those which might, but are not likely to, cause significant disturbance of surface resources. The operations for which an operator must submit and obtain Forest Service approval of a proposed plan of operations before operating are idenitifed by 36 CFR 228.4(a)(3)–(a)(4) as those which will likely cause, or are actually causing, a significant disturbance of surface resources.

b. The BLM's surface management regulations at 43 CFR 3809.10 similarly establish three classes of locatable minerals operations: Casual use, notice-level operations, and plan-level operations. The operations which constitute casual use are identified by 43 CFR 3809.5 as those which ordinarily result in no or negligible disturbance of the public lands or resources managed by the BLM. Per 43 CFR 3809.10(a) an operator is not required to notify the BLM before beginning operations classified as casual use. Notice-level operations are identified by 43 CFR 3809.21 as exploration causing surface disturbance of 5 acres or less of public lands on which reclamation has not been completed. Generally 43 CFR 3809.10(b) requires an operator proposing to conduct notice-level operations to submit a notice to the BLM. In accordance with 43 CFR 3809.311 and 3809.312(d) an operator may not begin notice-level operations until the BLM determines that the operator's notice is complete and the operator has submitted the required finacial guarantee. Typically, 43 CFR 3809.10(a) requires an operator to submit a proposed plan of operations for all other locatable mineral operations and 43 CFR 3809.412 prohibts the operator from begining those operations until the BLM approves the plan of operations and the operator has submitted the required financial guarantee.

c. The Forest Service is contemplating amending its regulations at 36 CFR part 228, subpart A, to increase consistency with the BLM's regulations which establish three classes of locatable mineral operations and specify the requirements an operator must satisfy before commencing operations in each such class, to the extent that the Forest Service's unique statutory authorities allow this. Do you agree with this approach?

d. If you do not agree that 36 CFR part 228, subpart A, should be amended to increase consistency with the BLM's regulations which establish three classes of locatable mineral operations andspecify the requirements which an operator must satisfy before commencing operations in each such class, please identify the classes of locatable mineral operations that you think the Forest Service should adopt. Also please identify all requirements that you think an operator should have to satisfy before commencing the locatable mineral operations that would fall in each such class.

e. If you previously concluded that 36 CFR part 228, subpart A, did not require you to give the Forest Service prior notice before you began conducting locatable mineral operations on National Forest System lands, what issues or challenges did you encounter once you began operating?

f. If you previously concluded that 36 CFR part 228, subpart A, only required you to submit a notice of intent before you began conducting locatable mineral operations on National Forest System lands, what issues or challenges did you encounter after submitting your notice of intent or after you began operating?

g. Should certain environmental concerns, such as threatened or endangered species, certain mineral operations, such as suction dredging, or certain land statuses, such as national recreation areas, be determinative of the classification of proposed locatable mineral operations? If so, please identify all circumstances which you think should require an opertor to submit a notice before operating, and all circumstances which you think should require an operator to submit and obtain Forest Service approval of a proposed plan of operations?

(2) Submitting, Receiving, Reviewing, Analyzing, and Approving Plans of Operations.

a. Today, 36 CFR 228.4(a)(3) and (4) requires an operator to submit, and obtain approval of, a proposed plan of operations before conducting locatable mineral operations which will likely cause, or are actually causing, a significant disturbance of National Forest System surface resources. Unfortunately, as the GAO's 2016 report entitled ''Hardrock Mining: BLM and Forest Service Have Taken Some Action To Expedite the Mine Plan Review Process but Could Do More'' concludes, the quality of the information operators include in such plans is frequently low, resulting in substantially delayed approval of these insufficient proposed plans. The Forest Service thinks that increasing the clarity of the plan of operations content requirements in 36 CFR part 228, subpart A, would result in better proposed plans of operations. The Forest Service also thinks that clarifying 36 CFR part 228, subpart A, to emphasize that proposed plans of operation must specify in detail the measures that operators intend to take to satisfy the requirements for environmental protection set out in 36 CFR 228.8 would result in better proposed plans of operation.

b. Nonetheless, the Forest Service has observed that the best proposed plans of operations often are submitted by operators who met with agency officials to discuss the formulation of their proposed plans. Thus, the Forest Service contemplates amending 36 CFR part 228, subpart A, to make operators aware that the Forest Service encourages them to meet with the appropriate local Forest Service official when the operator begins formulating a proposed plan to ensure that the operator knows and understands precisely what information a proposed plan of operations must contain for the agency to find it complete. The Forest Service thinks that routinely having such meetings would improve the quality of proposed plans of operation and consequently speed the approval of such plans.

c. The Forest Service also is considering amending 36 CFR part 228, subpart A, to require that the appropriate agency official ensures that an operator's proposed plan of operations is complete before the agency begins the National Environmental Policy Act (NEPA)-related process of analyzing that plan and ensuring that the measures an operator intends to take to satisfy the requirements for environmental protection set out in 36 CFR 228.8 are appropriate. As the GAO's 2016 report finds, when analysis of a proposed plan of operations begins before the Forest Service has determined that the plan is complete, the consequence is likely to be that this analysis must be repeated or augmented due to subsequently identified gaps in the proposed plan. The GAO's 2016 report observes, and the Forest Service agrees, that the ultimate consequence of begining to analyze an incomplete proposed plan of operations is delay in the plan's approval. Premature analysis of a proposed plan of operations also usually results in unnecessary expenditures on the part of the Forest Service, and sometimes the operator. Therefore, the Forest Service is considering amending 36 CFR part 228, subpart A, to require an appropriate Forest Service official to initially review all proposed plans of operation for completeness. If that official finds a proposed plan incomplete, the agency would notify the operator, identify the additional information the opertor must submit, and advise the operator that the Forest Service will not begin analyzing that plan until it is complete.

d. Do you think that amending 36 CFR part 228, supart A, to provide an opportunity for an operator to meet with the Forest Service before submitting a proposed plan of opertions, or to require the Forest Service to determine that a proposed plan is complete before initiating its NEPA-related analysis of the plan will expedite approval of proposed plans of operations? Are there additional or alternate measures that you would recommend to expedite approval of proposed plans of operation

submitted to the Forest Service under 36 CFR part 228, subpart A?

e. How should 36 CFR part 228, subpart A, be amended so that the requirements for submitting a proposed plan of operations and the process the Forest Service uses in receiving, reviewing, analyzing, and approving that plan are clear?

f. What issues or challenges have you encountered with respect to preparing a proposed plan of operations or submitting that plan to the Forest Service pursuant to 36 CFR 228.4(c) and (d) or 36 CFR 228.4(a)(3) and (4), respectively?

g. What issues or challenges have you encountered with respect to the Forest Service's receipt, review, analysis, or approval of a proposed plan of operations that you submitted under 36 CFR part 228 subpart A?

(3) Modifying Approved Plans of Operations.

a. After a plan of operations has been approved by the Forest Service under 36 CFR part 228 subpart A, either the operator or the Forest Service may see reason why that plan should be modified. However, 36 CFR part 228, subpart A, does not explicitly recognize that an operator may request modification of an approved plan or provide procedures for such a modification. Insofar as the Forest Service is concerned, 36 CFR part 228, subpart A, permits a Forest Service official to ask an operator to submit a proposed modification of the approved plan for the purpose of minimizing unforseen significant disturbance of surface resources. However, 36 CFR part 228, subpart A, provides that the Forest Service official cannot require the operator to submit such a proposed modification unless the official's immediate supervisor makes three findings. One of the necessary findings is that the Forest Service took all reasonable measures to predict the environmental impacts of the proposed operations prior to approving the plan of operations.

b. The NRC's 1999 report entitled ''Hard Rock Mining on Federal Lands'' is strongly critical of these current 36 CFR part 228, subpart A, limitations upon the Forest Service's ability to require an operator to obtain approval of a modified plan of operations. The NRC's 1999 report finds that ''. . . arguments over what should have been 'foreseen' or whether a . . . Forest Service officer took 'all reasonable measures' in approving the original plan makes the modification process dependent on looking backward. Instead, the process should focus on what may be needed in the future to correct problems that have resulted in harm or threatened harm . . . . Modification procedures should look forward, rather than backward, and reflect advances in predictive capacity, technical capacity, and mining technology.''

c. Do you agree that 36 CFR part 228, subpart A, should be amended to explicitly permit an operator to request Forest Service approval for a modification of an existing plan of operations?

d. Do you agree with the 1999 NRC report's conclusion that the plan of operations modification provisions in 36 CFR part 228, subpart A, should be amended to permit the Forest Service to require modification of an approved plan in order (1) to correct problems that have resulted in harm or threatened harm to National Forest System surface resources and (2) to reflect advances in predictive capacity, technical capacity, and mining technology? If you do not agree with the 1999 NRC report's conclusion that 36 CFR part 228, subpart A, should be amended to allow the Forest Service to require an operator to modify an approved plan of operations to achieve these two ends, please identify any circumstances in addition to those in the current regulations which you think should permit the Forest Service to require modification of an approved plan of operations.

e. Do you think that the regulations at 36 CFR part 228, subpart A, should be amended to set out the procedures which govern submission, receipt, review, analysis, and approval of a proposed modification of an existing plan of operations? If so, please describe the procedures that you think should be added to 36 CFR part 228, subpart A, to govern modification of existing plans of operations, including any differing requirements that should be adopted if the modification is being sought by the operator rather than the Forest Service.

(4) Noncompliance and Enforcement.

a. Currently the noncompliance provisions in 36 CFR part 228, subpart A, simply require the Forest Service to serve a notice of noncompliance upon an operator when the operator is not in compliance with 36 CFR part 228, subpart A, or an approved plan of operations and this noncompliance is unnecessarily or unreasonably causing injury, loss or damage to surface resources. The notice of noncompliance must describe the noncompliance, specify the actions that the operator must take to come into compliance, and specify the date by which such compliance is required. The regulations at 36 CFR part 228, subpart A, do not specify what further administrative actions the Forest Service may take if the operator does not meet the requirements set out in the notice of noncompliance.

b. There also are judicial remedies that the federal government may pursue when an operator fails to comply with 36 CFR part 228, subpart A, or an approved plan of operations. A United States Attorney may bring a civil action in federal court (1) seeking an injunction requiring an operator to cease acting in a manner which violates 36 CFR part 228, subpart A, or the approved plan, or (2) seeking an order requiring the operator to take action required by 36 CFR part 228, subpart A, or the approved plan of operations and to compensate the United States for any damages that resulted from the operator's unlawful act. Federal criminal prosecution of an operator also is possible for violations of the Forest Service's regulations at 36 CFR part 261, subpart A, which bar users of the National Forest System, including locatable mineral operators, from acting in a manner prohibited by that Subpart. An operator charged with violating 36 CFR part 261, subpart A, which is a misdemeanor, may be prosecuted in federal court. If the operator is found guilty of violating such a prohibition, the court can order the operator to pay a fine of not more than $5,000, to be imprisoned for not more than 6 months, or both. Some operators have challenged these criminal prosecutions when the Forest Service has not first served them a notice of noncompliance. Although these challenges have failed, their pursuit nonetheless indicates that increasing the clarity of the Forest Service's regulations pertaining to the enforcement of 36 CFR part 228, subpart A, and approved plans of operations is desirable.

c. The BLM has more administrative enforcement tools it can employ when an operator does not comply with the agency's surface management regulations at 43 CFR part 3800, subpart 3809, a notice, or an approved plan of operations. However, the action that the BLM takes is dependent upon whether a violation is significant. Under the BLM's regulations, a significant violation is one that causes or may result in environmental or other harm or danger, or one that substantially deviates from a notice or an approved plan of operations. When the BLM determines that an operator's noncompliance is significant, the agency may issue the operator an immediate temporary suspension order. If the operator takes the required corrective action in accordance with an

immediate temporary suspension order, the BLM will lift the suspension. But if the operator fails to take the required corrective action, then once the BLM completes a specified process the agency may nullify the operator's notice or revoke the operator's approved plan of operations.

d. When the BLM determines that an operator's noncompliance is not significant, the agency may issue the operator a noncompliance order which describes the noncompliance, specifies the actions the operator must take to come into compliance, and specifies the date by which such compliance is required. If the operator takes the required corrective action, the BLM will lift the noncompliance order. However, if the operator fails to take the required corrective action, the BLM again assesses the violation's significance. If the BLM determines that the noncompliance is still not significant, the agency may require the operator to obtain approval of a plan of operations for current or future notice-level activity. But, if the BLM determines that the operator's noncompliance has become significant, then once the agency completes a specified process the BLM may issue the operator a suspension order. When the BLM issues a suspension order, the agency follows the same process applicable to an immediate temporary suspension order. Thus, the operator's failure to take comply with a suspension order may result in the agency nullifying the operator's notice or revoking the operator's approved plan of operations.

e. There are judicial remedies that the federal government may pursue if an operator fails to comply with any of the BLM's enforcement orders. The civil remedies that a United States Attorney can seek are the same as the ones available when the noncompliance involves lands managed by the Forest Service. But if an operator knowingly and willfully violates the BLM's regulations at 43 CFR subpart 3809, the consequences of the operator's criminal prosecution may be far more severe than those operative when an operator violates 36 CFR part 261, subpart A. An individual operator convicted of violating the BLM's regulations is subject to a fine of not more than $100,000, imprisonment for not more than 12 months, or both, for each offense. An organization or corporation convicted of violating the BLM's regulations is subject to a fine of not more than $200,000.

f. As the NRC's 1999 report entitled ''Hard Rock Mining on Federal Lands'' finds, the Forest Service's inability to issue a notice of noncompliance unless the operator fails to comply with 36 CFR part 228, subpart A, and that noncompliance is unnecessarily or unreasonably causing injury, loss or damage to National Forest System surface resources ''has led to concern about the efficacy of the notice of noncompliance in preventing harm to [those] resources. . . .'' The fact that 36 CFR part 228, subpart A, does not expressly permit the Forest Service to suspend or revoke noncompliant plans of operations also poses an unnecessary risk that the agency would be challenged if it took these actions in order to prevent harm to National Forest System surface resources.

g. The Forest Service is contemplating amending 36 CFR part 228, subpart A, to increase consistency with the BLM's regulations governing the enforcement of locatable mineral operations conducted upon public lands that the BLM manages, to the extent that the Forest Service's unique statutory authorities allow this. Do you agree with this approach?

h. If you do not agree that 36 CFR part 228, subpart A, should be amended to increase consistency with the BLM's regulations governing the enforcement of locatable mineral operations conducted upon public lands that the BLM manages, please describe the enforcement procedures that you think the Forest Service should adopt to prevent noncompliance with the agency's requirements governing locatable mineral operations from harming National Forest System surface resources.

i. Please describe the processes that the Forest Service should be mandated to follow if 36 CFR part 228, subpart A, is amended to permit the Forest Service to take the following enforcement actions: Ordering the suspension of noncompliant operations, in whole or in part, requiring noncompliant operators to obtain approval of a plan of operations for current or future notice-level operations, and nullifying a noncompliant operator's notice or revoking a noncompliant operator's approved plan of operations.

(5) Reasonably Incident Use and Occupancy.

a. The Surface Resources Act of 1955, 30 U.S.C. 612(a), aplies to National Forest System lands and prohibits the use of mining claims for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto. But federal courts had held that the mining laws only entitle persons conducting locatable mineral operations to use surface resources for prospecting, exploration, development, mining, and processing purposes, and for reasonably incident uses long before 1955. Usually, two categories of uses that may be reasonably incident to prospecting, exploration, development, mining, and processing operations uses are recognized. One is called ''occupancy,'' or sometimes ''residency,'' and means full or part-time residence on federal lands subject to the mining laws along with activites or things that promote such residence such as the construction or maintenance of structures for residential purposes and of barriers to access. The term ''use'' generally refers to all other activities or things that promote prospecting, exploration, development, mining, and processing, such as the maintenance of equipment and the construction or maintenance of access facilities.

b. Unfortunately, the mining laws have long been widely abused by individuals and entities in an attempt to justify unlawful use and occupancy of federal lands. As the 1990 United States General Accounting Office report ''Federal Land Management: Unathorized Activities Occuring on Hardrock Mining Claims:'' (United States General Accounting Office. 1990. Report to the Chairman, Subcommittee on Mining and Natural Resources, Committee on Interior and Insular Affairs, House of Representatives. Federal Land Management: Unathorized Activities Occuring on Hardrock Mining Claims. GAO/RCED 90–111. Washington, DC: U.S. General Accounting Office. *https://www.gao.gov/assets/220/212954.pdf*) finds, some holders of mining claims were using them for unauthorized residences, non-mining commercial operations, illegal activities, or speculative activities not related to legitimate mining. The GAO's 1990 report also determines that these unauthorized activities result in a variety of problems, including blocked access to public land by fences and gates; safety hazards including threats of violence; environmental contamination caused by the unsafe storage of hazardous wastes; investment scams that defraud the public; and increased costs to reclaim damaged land or otherwise acquire land from claim holders intent on profiting from holding out for monetary compensation from parties wishing to use the land for other purposes. Accordingly, the GAO's 1990 report urges the Forest Service and the BLM to revise their regulations to limit use or occupancy under the mining laws to that which is reasonably incident.

c. Issues regarding the propriety of use and occupancy under the Surface Resources Act's reasonably incident

standard have generated, and continue to generate, frequent and protracted diputes between persons who are conducting locatable mineral operations and Forest Service personnel responsible for preventing unalwful use and occupancy of National Forest System lands. Moreover, a signifcant percentage of the judicial enforcement actions the federal government commences with regard to locatable mineral operations on National Forest System lands involve use and occuapancy of the lands that is questionable or improper under 30 U.S.C. 612(a). Presently, 36 CFR part 228, subpart A, lacks express standards or procedures for determining whether proposed or existing use and occuapancy is reasonably incident, regulating use and occuapancy per se, and terminating use and occupancy which is not reasonably incident.

d. The BLM's regulations at 43 CFR part 3710, subpart 3715, are designed to prevent or eliminate uses and occupancies of public lands which are not reasonably incident to locatable mineral prospecting, exploration, development, mining, or processing. These regulations establish a framework for distinguishing between bona fide uses and occupancies and those that represent abuse of the mining laws for non-mining pursuits. Specifically, the BLM's regulations establish procedures for beginning occupancy, inspection and enforcement, and managing existing uses and occupancies as well as standards for evaluating whether use or occupancy is reasonably incident.

e. The Forest Service is contemplating amending 36 CFR part 228 subpart A, which governs all operations conducted on National Forest System lands under the mining laws, to increase consistency with the BLM's regulations governing use and occupancy under the mining laws. Do you agree with this approach?

f. If you do not agree that 36 CFR part 228, subpart A, should be amended to increase consistency with the BLM's regulations governing use and occupancy under the mining laws, please describe the requirements, standards, and procedures that you think the Forest Service should adopt to prevent unalwful use and occupancy of National Forest System surface resources that is not reasonably incident to prospecting, exploration, development, mining, or processing operations under the mining laws.

(6) Financial Guarantees.

a. Current regulations at 36 CFR part 228, subpart A, include a section entitled ''bonds'' but there are many alternate kinds of financial assurance which the regulations recognize as being acceptable substitutes. Therefore, the Forest Service contemplates changing the title of this section to the broader terminology ''Financial Guarantees.'' The current regulations provide for the Forest Service authorized officer to review the adequacy of the estimated cost of reclamation and of the financial guarantee's terms in connection with the approval of an initial plan of operations. But the regulations do not specifically provide that the authorized officer will subsequently review the cost estimate and the finanical guarantee to ensure that they remain sufficient for final reclamation. The Forest Service is considering amending 36 CFR part 228, subpart A, to provide for such a subsequent review. An issue that the agency will consider is whether 36 CFR part 228, subpart A, should specifically provide that the review will occur at a fixed interval. The Forest Service also is considering whether to amend 36 CFR part 228, subpart A, to specfically provide for the establishment of a funding mechanism which will provide for post-closure obligations such as long-term water treatment and maintaining long-term infrastructure such as tailings impoundments. Another concern is what forms of financial guarantee should an operator be allowed to furnish to assure these long-term post-closure obligations.

b. What circumstances should permit the authorized officer to review the cost estimate and financial guarantee's adequacy and require the operator to furnish an upadated financial guarantee for reclamation or post-closure management?

c. How frequently should the authorized officer be allowed to initiate this reivew and update of the finacial guarantees for reclamation or post-closure management?

(7) Operations on Withdrawn or Segregated Lands.

a. Segregations and withdrawals close lands to the operation of the mining laws, subject to valid existing rights. Generally the purpose of segregation and withdrawal is environmental resource protection, but sometimes they are used in advance of a realty action to prevent the location of mining claims which might pose an obstacle to the contemplated realty action. The Forest Service's regulations at 36 CFR part 228, subpart A, do not contain provisions governing proposed or existing notices of intent to conduct operations and proposed or approved plans of operations for lands subject to mining claims that embrace segregated or withdrawn lands. As a matter of policy, the Forest Service employs the same procedures appplicable to operations on segregated or withdrawn lands that are set forth in the BLM's regulations at 43 CFR 3809.100. However, the absence of explicit Forest Service regulations governing locatable mineral operations on segregated or withdrawn National Forest System lands has given rise to legal challenges concerning the propriety of this Forest Service policy.

b. Under 43 CFR 3809.100, the BLM will not approve a plan of operations or allow notice-level operations to proceed on lands withdrawn from appropriation under the mining laws until the agency has prepared a mineral examination report to determine whether each of the mining claims on which the operations would be conducted was valid before the withdrawal and remains valid. Where lands have been segregated from appropriation under the mining laws, the BLM may, but is not required to, prepare such a mineral examination report before the agency approves a plan of operations or allows notice-level operations to proceed.

c. If a BLM mineral examination report concludes that one or more of the mining claims in question are invalid, 43 CFR 3809.100 prohibits the agency from approving a plan of operations or allowing notice-level operations to occur on all such mining claims. Instead, the regulation requires the BLM to promptly initiate contest proceedings with respect to those mining claims. There is one exception to this process: Prior to the completion of a required mineral examination report and any contest proceedings, 43 CFR 3809.100 permits the BLM to approve a plan of operations solely for the purposes of sampling to corroborate discovery points or complying with assessment work requirements. If the U.S. Department of the Interior's final decision with respect to a mineral contest declares any of the mining claims to be null and void, the operator must complete required reclamation but must cease all other operations on the lands formerly subject to all such mining claims.

d. The Forest Service is contemplating amending 36 CFR part 228, subpart A, to increase consistency with the BLM's regulations governing operations on segregated or withdrawn lands. However, since the authority to determine the validity of mining claims lies with the Department of the Interior, the amendments would need to direct the Forest Service to ask the BLM to initiate contest proceedings with respect to mining claims whose validity is questioned by the Forest Service—a process consistent with an existing agreement between the Department of the Interior and the Department of

Agriculture. Do you agree with this approach? Also, please specify whether you think that such amendments to 36 CFR part 228, subpart A, should treat locatable mineral operations conducted on segregated and withdrawn lands identically or differently, and the reasons for your belief.

e. If you do not agree that 36 CFR part 228, subpart A, should be amended to increase consistency with the BLM's regulations governing operations on segregated and withdrawn lands, please describe the requirements and procedures that you think the Forest Service should adopt to govern locatable mineral operations on National Forest System lands segregated or withdrawn from appropriation under the mining laws?

(8) Procedures for Minerals or Materials that May Be Salable Mineral Materials, Not Locatable Minerals.

a. Effective July 24, 1955 in accordance with 30 U.S.C. 601, 611, mineral materials, including but not limited to common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay found on National Forest System lands reserved from the public domain ceased being locatable under the mining laws. Instead, the Forest Service normally is required to sell these substances, which are collectively referred to as mineral materials, to the highest qualified bidder after formal advertising pursuant to 30 U.S.C. 602 and Forest Service regulations at 36 CFR part 228, subpart C (49 FR 29784, July 24, 1984, as amended at 55 FR 51706, Dec. 17, 1990). However, uncommon varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay found on National Forest System lands reserved from the public domain continue to be locatable under the mining laws, 30 U.S.C. 611.

b. When there is a question as to whether one of these minerals or materials is a common variety of that substance which is salable under the Materials Act of 1947, 30 U.S.C. 601–04, or an uncommon variety of that substance which is subject to appropriation under the mining laws, 30 U.S.C. 611, Forest Service policy calls for preparation of a mineral examination report to evaluate this issue. Pending resolution of the question as to whether the mineral or material is subject to appropriation under the mining laws, the Forest Service encourages an operator seeking to remove it in accordance with 36 CFR part 228, subpart A, to establish an escrow account and deposit the appraised value of the substance in that account. But if the operator refuses to establish and make payments to an escrow account, 36 CFR part 228, subpart A, does not expressly permit the Forest Service to delay the substance's removal while the Forest Service considers whether the substance is a mineral material rather than a locatable mineral.

c. The BLM's regulations at 43 CFR 3809.101 establish special procedures applicable to substances that may be salable mineral materials rather than locatable minerals. That section generally prohibits anyone from initiating operations for the substance until the BLM has prepared a mineral examination report evaluating this question. Prior to completion of the report and any resulting contest proceedings, the BLM will allow notice-level operations or approve a plan of operations when (1) the operations' purpose is either sampling to confirm or corroborate existing mineral exposures physically disclosed on the mining claim or complying with assessment work requirements, or (2) the operator establishes an acceptable escrow account and deposits the appraised value of the substance in that account under a payment schedule approved by the agency. If the mineral examination report concludes that the substance is salable rather than locatable, the BLM will initiate contest proceedings with respect to all mining claims on which loctable mineral operations are proposed unless the mining claimant elects to relinquish those mining claims. Upon the relinquishment of all such mining claims or the U.S. Department of the Interior's issuance of a final decision declaring those mining claims to be null and void, the operator must complete required reclamation but must cease all other operations on the lands formerly subject to those mining claims.

d. The Forest Service is contemplating amending 36 CFR part 228, subpart A, to increase consistency with the BLM's regulations governing substances that may be salable mineral materials rather than locatable minerals. However, since the authority to determine the validity of mining claims lies with the Department of the Interior, the amendments would need to direct the Forest Service to ask the BLM to initiate contest proceedings with respect to mining claims which the Forest Service thinks are based upon an improper attempt to appropriate salable mineral materials under the mining laws—a process consistent with an existing agreement between the Department of the Interior and the Department of Agriculture. Do you agree with this approach?

e. If you do not agree that 36 CFR part 228, subpart A, should be amended to increase consistency with the BLM's regulations governing substances that may be salable mineral materials rather than locatable minerals, please describe the requirements and procedures that you think the Forest Service should adopt to help ensure that the public interest and the Federal treasury are protected by preventing mineral materials from being given away for free contrary to 30 U.S.C. 602 which requires payment of their fair market value.

f. If you submitted a proposed plan of operations under 36 CFR part 228, subpart A, for what you thought was an uncommon variety of sand, stone, gravel, pumice, pumicite, cinders, and clay, what issues or challenges did you encounter in obtaining, or attempting to obtain, Forest Service approval of that plan?

National Environmental Policy Act

This advance notice also serves as the USDA Forest Service's notice of intent to prepare an environmental assessment or environmental impact statement pursuant to the National Environmental Policy Act and initiates the scoping process for that document. The USDA Forest Service requests comments about the potential environmental effects of the propsective amendments to its current regulations at 36 CFR part 228, subpart A, described in this advance notice.

Regulatory Findings: This advance notice is not a regulatory action under Executive Order 13771.

Dated: August 31, 2018.

Victoria Christiansen,

Interim Chief, USDA, Forest Service.

[FR Doc. 2018–19961 Filed 9–12–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596–AD33

Oil and Gas Resources

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed rulemaking; request for comment.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service is preparing to revise the contents of its Oil and Gas Resources regulations. This advance notice is intended to give the public the opportunity to comment on key issues regarding implementation of the existing regulations or to bring other issues of concern to the USDA Forest Service's attention. Comments will help

the USDA Forest Service determine the next steps in addressing the oil and gas regulations. The Office of Management and Budget has determined that this advance notice is significant under E.O. 12866.

DATES: Comments must be received by October 15, 2018.

ADDRESSES: Please submit comments via one of the following methods:

1. *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov/.* In the Search box, enter FS–2018–0053 which is the docket number for this Advance Notice of Proposed Rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Notice link to locate this document. You may submit a comment by clicking on ''Comment Now!''

2. *Mail:* Written comments should be addressed to USDA-Forest Service. Attn: Director-MGM Staff, 1617 Cole Boulevard, Building 17, Lakewood, CO 80401.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Sherri Thompson at 303–275–5147 or by mail at 1617 Cole Boulevard, Building 17, Lakewood, CO 80401. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 10 a.m. and 7 p.m., Eastern Standard Time, Monday through Thursday.

SUPPLEMENTARY INFORMATION:

Background:

The USDA Forest Service manages and protects 154 national forests, 20 grasslands and 1 prairie in 43 states and Puerto Rico. The agency's mission is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. At the same time, Congress has long recognized the importance of the mineral resources located within the National Forest System and has repeatedly made special provision for the administration and development of these minerals. Congress passed the Mining and Mineral Policy Act of 1970 setting a national policy to foster private development of domestic mineral resouces to help assure the satisfaction of industrial, security, and environmental needs. It is in the national interest to promote clean and safe development of our Nation's vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.

Approximately 44 national forests or grasslands have ongoing federal oil and gas interest or operations. Pursuant to the Mineral Leasing Act, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (''Reform Act''), the Department of the Interior (through the Bureau of Land Management and regulations at 43 CFR part 3100) and the Department of Agriculture (through the USDA Forest Service and regulations at 36 CFR part 228, subpart E) exercise complementary regulatory authority over the development of federal oil and gas resources associated with National Forest System lands. While the Secretary of the Interior determines whether any oil and gas lease shall be issued and regulates all downhole operations through a post-leasing Application for Permit to Drill (APD), the Reform Act directs that on National Forest System lands reserved from the public domain: (1) No lease may be issued over the objection of the Secretary of Agriculture, and (2) no APD may be granted without the analysis and approval by the Secretary of Agriculture of a Surface Use Plan of Operations (SUPO) covering proposed surface-disturbing activities within the lease area. USDA Forest Service's issuance of a consent to lease is similarly required for acquired National Forest System lands pursuant to the Mineral Leasing Act for Acquired Lands of 1947. The regulations at 36 CFR 228, Subpart E establish uniform procedures addressing oil and gas leasing and operations across all National Forest System lands. Specific to oil and gas leasing, the Energy Policy Act of 2005 charged USDA Forest Service to ensure timely and coordinated action on leasing applications and expeditious compliance with environmental and cultural resource laws.

Need for Rulemaking

The USDA Forest Service is seeking public comment regarding updating, clarifying, and streamlining the regulations at 36 CFR 228 Subpart E—Oil and Gas Resources. The current regulations were promulgated in 1990 with a minor modification in 2007 to reflect revisions to Onshore Order No. 1,[1] 42 CFR 3164.1. Updating the regulations will afford an opportunity to modernize and streamline analytical and procedural requirements.

The USDA Forest Service examined the regulations as part of USDA's response to Executive Order 13212, ''Actions to Expedite Energy-Related Projects,'' Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' and Executive Order 13807, ''Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure.'' Several areas of the current regulations were identified where potential revisions may expedite energy-related projects by streamlining internal processes related to environmental review and permitting. Potential revisions may simplify the decision making process for oil and gas leasing, which would lead to quicker leasing decisions. The potential changes to the existing regulation permitting sections include eliminating language that is redundant with the NEPA process, removing confusing options, and ensuring better alignment with the BLM regulations. The intent of these potential changes would be to decrease permitting times by removing regulatory burdens that unnecessarily encumber energy production. These potential changes would promote domestic oil and gas production by allowing industry to begin production more quickly. The areas of the current regulations identified for potential changes are listed in the bullets in the next section of this announcement, entitled ''Comments Requested on Proposed Regulation Revision.''

Public input is requested as the USDA Forest Service seeks to identify opportunities to streamline the regulations to reduce burdens on the agency and applicants. A focus of the streamlining review is to simplify internal USDA Forest Service processing so that agency leasing reviews and Surface Use Plans of Operation portions of applications can be processed more efficiently. When the USDA Forest Service conducts a National Environmental Policy Act (NEPA) analysis before making an oil and gas leasing consent decision, the analysis frequently takes multiple years to be scheduled, funded, and

[1] Onshore Order No. 1 was originally issued in 1983 to implement and supplement Bureau of Land Management's oil and gas regulations, 43 CFR 3160. It established the application requirements for the approval of proposed oil and gas and service wells, certain subsequent well operations and abandonment for operations on Federal oil and gas leases. One of the purposes of the Order as amended May 7, 2007, is to reflect the assignment of authority to the Secretary of Agriculture to approve and regulate the surface disturbing activity associated with oil and gas wells on National Forest System lands (1987 Federal Oil and Gas Leasing Reform Act).

completed. Five to ten years is not an uncommon length of time for parties interested in leasing National Forest System lands to wait. In July 2017, the Bureau of Land Management compiled a list of Surface Use Plans of Operation (the surface use portion of an Application for Permit to Drill) awaiting USDA Forest Service processing. That list included 177 Surface Use Plans of Operation with an average pending time of 3.6 years.

The Agency will continue to deliver scientifically-based, high-quality analysis to decision makers that honors its environmental stewardship responsibilities while maintaining robust public particiption. In addition, the USDA Forest Service plans to conduct staff training following the revision of the regulations to provide a more consistent approach to oil and gas management across the National Forest System.

Comments Requested on Proposed Regulation Revision

The current regulations can be found at *https://www.gpo.gov/fdsys/pkg/CFR-2017-title36-vol2/pdf/CFR-2017-title36-vol2-part228-subpartE.pdf.* The USDA Forest Service requests comments regarding revision of the following areas of the oil and gas regulations at 36 CFR part 228, subpart E:

- Streamlining and reforming the process used by the USDA Forest Service to identify National Forest System lands that the Bureau of Land Management may offer for oil and gas leasing;
- Updating regulatory provisions concerning lease stipulation waivers, exceptions and modifications;
- Clarifying procedures for review and approval of surface use plans of operations;
- Updating the language addressing the operator's responsibility to protect natural resources and the environment;
- Clarifying language regarding inspections and compliance; and
- Addressing geophysical/seismic operations associated with minerals related matters in a manner that mirrors the Bureau of Land Management (BLM) regulations.

The changes listed here have the potential to decrease the burden on industry, thus promoting domestic energy production primarily by making the leasing decision process simpler, and by aligning the Forest Service process with the BLM so that operators have one simplified permitting system.

National Environmental Policy Act

This Advance Notice also serves as the USDA Forest Service's notice of intent to prepare an environmental assessment or environmental impact statement pursuant to the National Environmental Policy Act, and initiate the scoping process. The USDA Forest Service requests comments regarding any potential environmental effects of changes to the 36 CFR part 228, subpart E, regulations.

Conclusion: The USDA Forest Service is considering how to best proceed with revisions to 36 CFR part 228, subpart E, addressing analysis and protection of the renewable surface resources of the National Forest System associated with development of oil and gas resources on National Forest System lands.

Comments and information supplied in response to this Notice will help the USDA Forest Service determine the next steps in revising and analyzing the oil and gas regulations. Comments should provide enough detail and contain sufficient supporting information (*e.g.,* citations to published studies and or data related to your comments) in order for the USDA Forest Service to understand the issues raised and give comments the fullest consideration.

Regulatory Findings: This ANPR is not a regulatory action under Executive Order 13771.

Dated: August 31, 2018.

Victoria Christiansen,

Interim Chief, USDA, Forest Service.

[FR Doc. 2018–19962 Filed 9–12–18; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0007, EPA–HQ–OLEM–2018–0580, 0581, 0582, 0583, 0585, and 0586; FRL–9983–70–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the agency'') in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add six sites to the General Superfund section of the NPL and proposes to change the name of a site previously added to the NPL.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 13, 2018.

ADDRESSES: Identify the appropriate docket number from the table below.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Copper Bluff Mine	Hoopa, CA	EPA–HQ–OLEM–2018–0580.
Cliff Drive Groundwater Contamination	Logansport, IN	EPA–HQ–OLEM–2018–0581.
McLouth Steel Corp	Trenton, MI	EPA–HQ–OLEM–2018–0582.
Sporlan Valve Plant #1	Washington, MO	EPA–HQ–OLEM–2018–0583.
Magna Metals	Cortlandt Manor, NY	EPA–HQ–OLEM–2018–0585.
Shaffer Equipment/Arbuckle Creek Area	Minden, WV	EPA–HQ–OLEM–2018–0586.

Submit your comments, identified by the appropriate docket number, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

To send a comment via the United States Postal Service, use the following address:

U.S. Environmental Protection Agency, EPA Superfund Docket Center, Mailcode 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Use the Docket Center address below if you are using express mail, commercial delivery, hand delivery or courier. Delivery verification signatures will be available only during regular business hours:

EPA Superfund Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004.

For additional docket addresses and further details on their contents, see section II, ''Public Review/Public Comment,'' of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not

mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the ''General Superfund section''), and one of sites that are owned or operated by other federal agencies (the ''Federal Facilities section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (''HRS'') score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760), a subsurface intrusion component was added to the HRS to enable the EPA to consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: Ground water, surface water, soil exposure and subsurface intrusion, and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the ''Jones Co. Plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. Plant site,'' does not imply that the Jones Company is responsible for the contamination located on the plant site.

The EPA regulations provide that the remedial investigation (''RI'') ''is a process undertaken . . . to determine the nature and extent of the problem presented by the release'' as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility Study (''FS'') (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA's internet site at *https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9.*

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.*

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence from this point forward between the EPA and states and tribes where applicable, is available on the EPA's website at *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.*

II. Public Review/Public Comment

A. May I review the documents relevant to this proposed rule?

Yes, documents that form the basis for the EPA's evaluation and scoring of the sites in this proposed rule are contained in public dockets located both at the EPA Headquarters in Washington, DC, and in the regional offices. These documents are also available by electronic access at *https://www.regulations.gov* (see instructions in the **ADDRESSES** section above).

B. How do I access the documents?

You may view the documents, by appointment only, in the Headquarters or the regional dockets after the publication of this proposed rule. The hours of operation for the Headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding federal holidays. Please contact the regional dockets for hours.

The following is the contact information for the EPA Headquarters Docket: Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office, 1301 Constitution Avenue NW, William Jefferson Clinton Building West, Room 3334, Washington, DC 20004; 202/566–0276. (Please note this is a visiting address only. Mail comments to the EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1413.
- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.
- Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814–3355.
- Cathy Amoroso, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, Mailcode 9T25, Atlanta, GA 30303; 404/562–8637.
- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.
- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner

Blvd., Mailcode SUPRSTAR, Lenexa, KS 66219; 913/551–7956.

- Victor Ketellapper, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6578.
- Sharon Bowen, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD 6–1, San Francisco, CA 94105; 415/947–4250.
- Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

You may also request copies from the EPA Headquarters or the regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. Please note that due to the difficulty of reproducing oversized maps, oversized maps may be viewed only in-person; since the EPA dockets are not equipped to both copy and mail out such maps or scan them and send them out electronically.

You may use the docket at *https://www.regulations.gov* to access documents in the Headquarters docket (see instructions included in the **ADDRESSES** section). Please note that there are differences between the Headquarters docket and the regional dockets and those differences are outlined in this preamble, Sections II.C and D.

C. What documents are available for public review at the EPA Headquarters docket?

The Headquarters docket for this proposed rule contains the following for the sites proposed in this rule: HRS score sheets; documentation records describing the information used to compute the score; information for any sites affected by particular statutory requirements or the EPA listing policies; and a list of documents referenced in the documentation record.

D. What documents are available for public review at the EPA regional dockets?

The regional dockets for this proposed rule contain all of the information in the Headquarters docket plus the actual reference documents containing the data principally relied upon and cited by the EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the regional dockets.

E. How do I submit my comments?

Comments must be submitted to the EPA Headquarters as detailed at the beginning of this preamble in the **ADDRESSES** section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

F. What happens to my comments?

The EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that the EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

G. What should I consider when preparing my comments?

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that the EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill* v. *Thomas,* 849 F.2d 1516 (D.C. Cir. 1988)). The EPA will not address voluminous comments that are not referenced to the HRS or other listing criteria. The EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in the EPA's stated eligibility criteria is at issue.

H. May I submit comments after the public comment period is over?

Generally, the EPA will not respond to late comments. The EPA can guarantee only that it will consider those comments postmarked by the close of the formal comment period. The EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

I. May I view public comments submitted by others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the regional dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper form, will be made available for public viewing in the electronic public docket at *https://www.regulations.gov* as the EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI) or other information whose disclosure is restricted by statute. Once in the public dockets system, select ''search,'' then key in the appropriate docket ID number.

J. May I submit comments regarding sites not currently proposed to the NPL?

In certain instances, interested parties have written to the EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

A. Proposed Additions to the NPL

In this proposed rule, the EPA is proposing to add six sites to the NPL, all to the General Superfund section. All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above.

The sites are presented in the table below.

General Superfund section:

State	Site name	City/county
CA	Copper Bluff Mine	Hoopa.
IN	Cliff Drive Groundwater Contamination	Logansport.
MI	McLouth Steel Corp	Trenton.
MO	Sporlan Valve Plant #1	Washington.
NY	Magna Metals	Cortlandt Manor.
WV	Shaffer Equipment/Arbuckle Creek Area	Minden.

B. Proposed Name Change of NPL Site

The Treasure Island Naval Station-Hunters Point Annex site (docket # EPA–HQ–SFUND–1989–0007), located in the City of San Francisco, was placed on the NPL in 1989. The California Department of Toxic Substances Control oversees cleanup at a separate non-NPL, state-lead site called the Naval Station Treasure Island, located midway between the cities of San Francisco and Oakland. These two separate sites are often confused with each other due to proximity and similar names. EPA is proposing to formally change the NPL site name to ''Hunters Point Naval Shipyard,'' which is the name most familiar to and used by San Francisco residents and government officials.

IV. 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 Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

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. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

F. Executive Order 13132: Federalism

This rule 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. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health 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 this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

I. Executive Order 13211: Actions 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 the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Dated: September 6, 2018.

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2018–19876 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 180202118–8753–01]

RIN 0648–BH63

Pacific Island Fisheries; Reclassifying Management Unit Species to Ecosystem Component Species

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to reclassify certain management unit species in the Pacific Islands as ecosystem component species. The proposed rule would also update the scientific and local names of certain species. The intent of this proposed rule is to prioritize conservation and management efforts and to improve efficiency of fishery management in the region.

DATES: NMFS must receive comments by October 29, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0021, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0021,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

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

The Western Pacific Fishery Management Council (Council) prepared Amendment 4 to the Fishery Ecosystem Plan (FEP) for American Samoa, Amendment 5 to the FEP for the Marianas Archipelago, and Amendment 5 to the FEP for Hawaii. Those amendments, available as a single document, include an environmental assessment (EA) that describes the potential impacts on the human environment that would result from the proposed rule. Copies of the EA and other supporting documents are available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Council and NMFS manage fishing in the U.S. Exclusive Economic Zone (EEZ) around the U.S. Pacific Islands. The management of bottomfish, coral reef ecosystem species, precious corals, and crustaceans in the EEZ (Federal waters) around Hawaii, the Mariana Islands (Guam and the Commonwealth of the Northern Marina Islands (CNMI)), and American Samoa is achieved under the FEPs for American Samoa, the Mariana Archipelago, and Hawaii, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act authorizes management of fisheries in the EEZ, while American Samoa, Guam, the CNMI, and Hawaii each manage the fisheries shoreward of the EEZ around their respective island areas.

Section 301(a) of the Magnuson-Stevens Act sets ten National Standards for fishery conservation and management. National Standard 1 (NS1) requires NMFS to use conservation and management measures to prevent overfishing, while achieving optimum yield on a continuing basis. The NS1 guidelines provide guidance to councils on the stocks under their jurisdiction that require conservation and management, and on how to address ecosystem component species (ECS). Specifically, not every fishery requires Federal management, but stocks that are caught predominately in Federal waters, and are also overfished or subject to overfishing, or likely to become overfished or subject to overfishing, do require conservation and management. Under NS1, Councils should consider the following ten non-exhaustive factors when deciding whether stocks require conservation and management:

1. The stock is an important component of the marine environment.
2. The stock is caught by the fishery.
3. Whether a fishery management plan (FMP) can improve or maintain the condition of the stock. (Note that the Council reorganized their FMPs and calls them fishery ecosystem plans (FEPs)).
4. The stock is a target of a fishery.
5. The stock is important to commercial, recreational, or subsistence users.
6. The fishery is important to the Nation or to the regional economy.
7. The need to resolve competing interests and conflicts among user groups, and whether an FMP can further that resolution.
8. The economic condition of a fishery, and whether an FMP can produce more efficient utilization.
9. The needs of a developing fishery, and whether an FMP can foster orderly growth.
10. The extent to which the fishery is managed adequately by states, by state/Federal programs, or by Federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the requirements of the Magnuson-Stevens Act and other applicable law.

Councils may also consider other factors beyond the ten listed factors.

NS1 also describes ECS as fish stocks that a council or the Secretary has determined do not require conservation and management, but desire to list in an FMP or FEP to achieve ecosystem management objectives. However, because ECS do not need conservation and management, ECS are not managed using annual catch limits (see 50 CFR 600.305(d)(13)). Management measures for ECS may include requirements to, for example, collect data, minimize bycatch or bycatch mortality, protect the associated role of ECS in the ecosystem, and/or address other ecosystem issues. Data collection also allows for monitoring the species in case a fishery develops or monitoring for other indications that suggest a need to consider possible changes in Federal management.

The Council reassessed existing bottomfish, coral reef ecosystem, precious coral, and crustacean, management unit species (MUS) in the three FEPs to determine which ones require conservation and management and which ones may be better suited as ECS, that is, stocks that do not require Federal conservation and management. Many of the MUS are caught predominately in state or territorial waters, generally 0–3 nm from shore, areas that are not in the EEZ. The Council and NMFS have limited authority to manage fishing activity for species predominately caught in state or territorial waters.

This proposed rule is intended to create a more effective Federal management system for Pacific Island fisheries that focuses resources on those species or stocks caught in Federal waters that are in need of conservation and management. The Council and NMFS would still be allowed to monitor and manage ECS and identify whether Federal management is needed. In addition, the Council may also recommend continued application of other management measures for ECS that meet its ecosystem objectives in the FEP.

This proposed rule would not change any fishery operations in terms of location, target and non-target species, catch, effort, fishermen participation, gear composition, seasonality, intensity, or bycatch. For newly designated ECS, the Council and NMFS would no longer establish annual catch limits or associated accountability measures. The states and territories would continue to monitor fisheries that catch ECS, in cooperation with the Council and NMFS, and if an ECS stock becomes newly identified as a target of a Federal fishery in the future, NMFS and the Council could consider reclassifying the ECS as MUS, and place that stock under active management measures.

Stock reclassified as ECS would no longer have associated designations of essential fish habitat (EFH), because Councils may only designate EFH for stocks that are in need of conservation and management. The effects of this change would be minor, however, because the habitats that are essential to the MUS that require conservation and management overlap with most of the stocks that would be designated as ECS. As a result, the total area designated as EFH would change only for the deep (400–700 m) benthic substrates near Guam, the Commonwealth of the Northern Marianas (CNMI), and American Samoa. In those areas, the laying of communication cables and military activities that could potentially result in expended military materials falling to the seafloor would be the only activities with potential benthic effects. Without an EFH designation for fish stocks in those areas, Federal agencies would need to continue to rely on other applicable laws (*e.g.,* the Clean Water Act) to evaluate and mitigate potential large effects of their proposed actions.

This proposed rule would reduce the number of MUS from 205 species or families to 11 in the American Samoa FEP, from 227 species or families to 13 in the Marianas FEP, and from 173 species or families to 20 in the Hawaii FEP. See the EA Appendix B for the complete list of ECS (see **ADDRESSES**).

This proposed rule would remove the definitions of ''Currently Harvested Coral Reef Taxa (CHCRT)'' and ''Potentially Harvested Coral Reef Taxa (PHCRT)'' and revise the definitions of ''Ecosystem Component Species'' and ''Special Permit'' throughout. In the current regulations, coral reef MUS are divided into two categories: CHCRT and PHCRT. CHCRT are those species that are harvested commercially in the EEZ, and PHCRT are those species that may be potentially harvested in the future. The proposed rule would reclassify all coral reef MUS as ECS, so the terms CHCRT and PHCRT would be unnecessary. The proposed definition of ecosystem component species aligns with the definition at § 600.305. All definitions referencing ''MUS'' in this subpart would be revised to also include ECS, where applicable.

For American Samoa, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
American Samoa bottomfish MUS	Some species	American Samoa bottomfish ECS.
American Samoa coral reef ecosystem MUS	All	American Samoa coral reef ECS.
American Samoa crustacean MUS	All	American Samoa crustacean ECS.
American Samoa precious coral MUS	All	American Samoa precious coral ECS.

For Hawaii, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
Hawaii bottomfish MUS	Some species	Hawaii bottomfish ECS.
Hawaii coral reef ecosystem MUS	All	Hawaii coral reef ECS.
Hawaii crustacean MUS	Some species	Hawaii crustacean ECS.
Hawaii precious coral MUS	Some species	Hawaii precious coral ECS.

For the Marianas Archipelago, this proposed rule would reclassify the following species groups:

Current classification	Change applies to	Proposed classification
Mariana bottomfish MUS	Some species	Mariana bottomfish ECS.
Mariana coral reef ecosystem MUS	All	Mariana coral reef ECS.
Mariana crustacean MUS	All	Mariana crustacean ECS.
Mariana precious coral MUS	All	Mariana precious coral ECS.

For a detailed description of the methods that the Council and NMFS used to identify the species to reclassify from MUS to ECS, please refer to Section 2 of the EA (see **ADDRESSES**).

The proposed rule would also update several scientific and common names according to current scientific classifications. All existing management measures, including reporting and record keeping, prohibitions, and experimental fishing regulations would apply to the associated ECS, unless otherwise specified.

NMFS must receive any comments by the date provided in the **DATES** heading. In addition, NMFS is soliciting comments on proposed Amendment 4 to the Fishery Ecosystem Plan (FEP) for American Samoa, Amendment 5 to the FEP for the Marianas Archipelago, and Amendment 5 to the FEP for Hawaii, as stated in the Notice of Availability published on August 8, 2018 (83 FR 39039). NMFS must receive comments on the amendments by October 9, 2018. NMFS will consider public comments received in response to the request for comments in the NOA and in response to the request for comments in this proposed rule in the decision to approve, disapprove, or partially approve the amendments.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the three FEPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed specification, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed rule.

The proposed rule would reclassify some of the management unit species as ecosystem component species in the FEPs for American Samoa, the Mariana Archipelago, and Hawaii. The proposed action would reduce the number of management unit species in the American Samoa FEP from 205 species or families to 11; from 227 species or families to 13 in the Marianas FEP; and from 173 species or families to 20 in the Hawaii FEP. The proposed action would not modify any fishery activities, and there would be no direct economic impact to fisheries.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have a significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Executive Order 12866

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

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Ecosystem, Fisheries, Fishing, Guam, Hawaii, Northern Mariana Islands, Permits, Reporting and recordkeeping requirements.

Dated: August 31, 2018.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 665.1, revise paragraph (a) to read as follows:

§ 665.1 Purpose and scope.

(a) The regulations in this part govern fishing for Pacific Island management unit species (MUS) and ecosystem component species (ECS) by vessels of the United States that operate or are based inside the outer boundary of the U.S. EEZ around American Samoa, Hawaii, Guam, the Northern Mariana Islands, Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island.

* * * * *

■ 3. In § 665.4, revise paragraph (c) to read as follows:

§ 665.4 Annual catch limits.

* * * * *

(c) *Exceptions.* The Regional Administrator is not required to specify an annual catch limit for an ECS, or for an MUS that is statutorily excepted from the requirement pursuant to 50 CFR 600.310(h)(2).

* * * * *

■ 4. In § 665.12, revise the definition of ''American Samoa FEP,'' remove the definition of ''Currently harvested coral reef taxa,'' revise the definitions of ''Ecosystem component species,'' ''First level buyer,'' ''Hawaii FEP,'' ''Mariana FEP,'' ''No-take MPA,'' ''Offload,'' and ''Pelagics FEP,'' remove the definition of ''Potentially harvested coral reef taxa,'' and revise the definitions of ''PRIA FEP,'' ''Special permit,'' and ''Transship'' to read as follows:

§ 665.12 Definitions.

* * * * *

American Samoa FEP means the Fishery Ecosystem Plan for American Samoa, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

Ecosystem component species (ECS) means a stock that a Council or the Secretary has determined does not require conservation and management, but is identified in an FEP to achieve ecosystem management objectives.

* * * * *

First level buyer means:

(1) The first person who purchases, with the intention to resell, management unit species (MUS) or ECS, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under crustacean fisheries in subparts B through E of this part; or

(2) A person who provides recordkeeping, purchase, or sales assistance in the first transaction involving MUS or ECS (such as the services provided by a wholesale auction facility).

* * * * *

Hawaii FEP means the Fishery Ecosystem Plan for the Hawaiian Archipelago, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

Mariana FEP means the Fishery Ecosystem Plan for the Mariana Archipelago, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

No-take MPA means an area of the U.S. EEZ that is closed to fishing for or harvesting of any MUS or ECS, as defined in subparts B through F of this part.

Offload means to remove MUS or ECS from a vessel.

* * * * *

Pelagics FEP means the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

PRIA FEP means the Fishery Ecosystem Plan for the Pacific Remote Island Areas of Palmyra Atoll, Kingman

Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island, available from the Western Pacific Fishery Management Council or PIRO.

* * * * *

Special permit means a permit issued to allow fishing for coral reef ECS in low-use MPAs or with any gear not specifically allowed under § 665.127, § 665.227, or § 665.427.

* * * * *

Transship means to offload or otherwise transfer MUS or ECS or products thereof to a receiving vessel.

* * * * *

■ 5. In § 665.13, revise paragraph (k) to read as follows:

§ 665.13 Permits and fees.

* * * * *

(k) *Display.* Any permit issued under this subpart, or a facsimile of such permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing MUS or ECS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

* * * * *

■ 6. In § 665.14, revise paragraphs (a), (c), (d), (g)(2) introductory text, (g)(2)(ii), and (g)(3) and (4) to read as follows:

§ 665.14 Reporting and recordkeeping.

(a) *State reporting.* Except for precious coral and crustacean fisheries, any person who is required to do so by applicable state law or regulation must make and/or file all reports of MUS or ECS landings containing all data and in the exact manner required by applicable state law or regulation.

* * * * *

(c) *Transshipment logbooks.* Any person subject to the requirements of § 665.124(a)(2), § 665.224(a)(2), § 665.424(a)(2), § 665.624(a)(2), or § 665.801(e) must maintain on board the vessel an accurate and complete NMFS transshipment logbook containing report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hours after the day of transshipment. Each form must be signed and dated by the receiving vessel operator. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 72 hours of each landing of western Pacific pelagic MUS. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 7 days of each landing of coral reef ECS.

(d) *Sales report.* The operator of any fishing vessel subject to the requirements of § 665.142, § 665.242, § 665.442, or § 665.642, or the owner of a medium or large fishing vessel subject to the requirements of § 665.404(a)(2) must submit to the Regional Administrator, within 72 hours of offloading of crustacean MUS or ECS, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

* * * * *

(g) * * *

(2) *Crustaceans.* Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Administrator, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean MUS or ECS taken by vessels that have permits issued under this subpart or §§ 665.140 through 665.145, §§ 665.240 through 665.252, §§ 665.440 through 665.445, or §§ 665.640 through 665.645. This requirement may be met by furnishing the information on a worksheet provided by the Regional Administrator. The information must include, but is not limited to:

* * * * *

(ii) The amount, number, and size of each MUS or ECS involved in each transaction.

* * * * *

(3) *Bottomfish and seamount groundfish.* Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this subpart and by §§ 665.100 through 665.105, 665.200 through 665.212, 665.400 through 665.407, and 665.600 through 665.606 must make those records immediately available for Federal inspection and copying upon request by an authorized officer.

(4) *Coral reefs.* Any person who has a special permit and who is required by state laws and regulations to maintain and submit records of catch and effort, landings and sales for coral reef ECS by this subpart and §§ 665.120 through 665.128, §§ 665.220 through 665.228, §§ 665.420 through 665.428, or §§ 665.620 through 665.628 must make those records immediately available for Federal inspection and copying upon request by an authorized officer as defined in § 600.10 of this chapter.

* * * * *

■ 7. In § 665.15, revise paragraphs (l), (n), and (o) to read as follows:

§ 665.15 Prohibitions.

* * * * *

(l) Fish for, take or retain within a no-take MPA, defined in § 665.99, § 665.199, § 665.399, or § 665.599, any bottomfish MUS or ECS, crustacean MUS or ECS, western Pacific pelagic MUS, precious coral MUS or ECS, seamount groundfish MUS, or coral reef ecosystem ECS.

* * * * *

(n) Fish for, catch, or harvest MUS or ECS without an operational VMS unit on board the vessel after installation of the VMS unit by NMFS, in violation of § 665.19(e)(2).

(o) Possess MUS or ECS, that were harvested after NMFS has installed the VMS unit on the vessel, on board that vessel without an operational VMS unit, in violation of § 665.19(e)(2).

* * * * *

■ 8. In § 665.17, revise paragraphs (a) and (b) to read as follows:

§ 665.17 Experimental fishing.

(a) *General.* The Regional Administrator may authorize, for limited purposes, the direct or incidental harvest of MUS or ECS that would otherwise be prohibited by this part. No experimental fishing may be conducted unless authorized by an EFP issued by the Regional Administrator in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Observers.* No experimental fishing for crustacean MUS or ECS may be conducted unless a NMFS observer is aboard the vessel.

* * * * *

■ 9. Revise § 665.101 to read as follows:

§ 665.101 Definitions.

As used in §§ 665.100 through 665.119:

American Samoa bottomfish ecosystem component species (American Samoa bottomfish ECS) means those species identified as ECS in the American Samoa FEP and not defined as American Samoa bottomfish MUS.

American Samoa bottomfish management unit species (American Samoa bottomfish MUS) means the following species:

Local name	Common name	Scientific name
palu-gutusiliva	red snapper, silvermouth	*Aphareus rutilans.*
asoama	gray snapper, jobfish	*Aprion virescens.*
tafauli	black trevally, jack	*Caranx lugubris.*
papa, velo	lunartail grouper	*Variola louti.*
palu malau	red snapper	*Etelis carbunculus.*
palu-loa	red snapper	*Etelis coruscans.*
filoa-paomumu	redgill emperor	*Lethrinus rubrioperculatus.*
savane	blueline snapper	*Lutjanus kasmira.*
palu-'ena'ena	pink snapper	*Pristipomoides filamentosus.*
palu-sina	yelloweye snapper	*Pristipomoides flavipinnis.*
palu-ula, palu-sega	Snapper	*Pristipomoides zonatus.*

■ 10. Revise § 665.103 to read as follows:

§ 665.103 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to fish for American Samoa bottomfish MUS or ECS using gear prohibited under § 665.104.

■ 11. In § 665.104, revise paragraph (a) to read as follows:

§ 665.104 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for American Samoa bottomfish MUS or ECS with bottom trawls and bottom set gillnets is prohibited.

* * * * *

■ 12. Revise § 665.121 to read as follows:

§ 665.121 Definitions.

As used in §§ 665.120 through 665.139, *American Samoa coral reef ecosystem component species (American Samoa coral reef ECS)* means those species identified as ECS in the American Samoa FEP and not defined as MUS or another ECS in this subpart.

■ 13. Revise § 665.123 to read as follows:

§ 665.123 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the American Samoa fishery management area, fishing for American Samoa coral reef ECS is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of whether that refuge was established by action of the President or the Secretary of the Interior.

■ 14. In § 665.124, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.124 Permits and fees.

(a) * * *

(1) *Special permit.* Any person of the United States fishing for, taking or retaining American Samoa coral reef ECS must have a special permit if they fish, or if a vessel which they operate is used to fish, for any:

(i) American Samoa coral reef ECS in low-use MPAs as defined in § 665.99;

(ii) American Samoa coral reef ECS in the coral reef ecosystem management area; or

(iii) American Samoa coral reef ECS in the coral reef ecosystem management area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is used in the American Samoa coral reef ecosystem management area to land or transship American Samoa coral reef ECS harvested within low-use MPAs.

(3) * * *

(i) Any person issued a permit to fish under any FEP who incidentally catches American Samoa coral reef ECS while fishing for bottomfish MUS or ECS, crustacean ECS, western Pacific pelagic MUS, precious coral ECS, or seamount groundfish MUS;

(ii) Any person fishing for American Samoa coral reef ECS outside of an MPA, who does not retain any American Samoa coral reef ECS; and

* * * * *

■ 15. In § 665.125, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.125 Prohibitions.

* * * * *

(a) Fish for, take, retain, possess or land any American Samoa coral reef ecosystem ECS in any low-use MPA as defined in § 665.99 unless:

* * * * *

(3) The American Samoa coral reef ECS possessed on board the vessel originated outside the management area, and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any American Samoa coral reef ECS:

* * * * *

■ 16. Revise § 665.126 to read as follows:

§ 665.126 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any American Samoa coral reef ECS harvested under a special permit and report the port and the approximate date and time at which the catch will be landed.

■ 17. In § 665.127, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.127 Allowable gear and gear restrictions.

(a) American Samoa coral reef ECS may be taken only with the following allowable gear and methods:

* * * * *

(b) American Samoa coral reef ECS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ECS in the management area is prohibited.

* * * * *

■ 18. In § 665.128, revise paragraph (a) to read as follows:

§ 665.128 Gear identification.

(a) *Gear marking.* The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under § 665.13 or § 665.124 or that is otherwise established to be fishing for American Samoa coral reef ecosystem ECS in the management area.

* * * * *

■ 19. In § 665.141, add the definition of ''American Samoa crustacean ecosystem component species'' in alphabetical order and remove the definition of ''American Samoa crustacean management unit species'' to read as follows:

§ 665.141 Definitions.

* * * * *

American Samoa crustacean ecosystem component species

(American Samoa crustacean ECS) means those species identified as ECS in the American Samoa FEP.

* * * * *

■ 20. In § 665.161, add the definition of ''American Samoa precious coral ecosystem component species'' in alphabetical order and remove the definition of ''American Samoa precious coral management unit species'' to read as follows:

§ 665.161 Definitions.

* * * * *

American Samoa precious coral ecosystem component species (American Samoa precious coral ECS) means those species identified as ECS in the American Samoa FEP.

* * * * *

■ 21. In § 665.162, revise paragraph (a) to read as follows:

§ 665.162 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining American Samoa precious coral ECS in any American Samoa precious coral permit area must have a permit issued under § 665.13.

* * * * *

■ 22. In § 665.163, revise the introductory text of paragraphs (b) and (c) to read as follows:

§ 665.163 Prohibitions.

* * * * *

(b) Fish for, take, or retain any species of American Samoa precious coral ECS in any precious coral permit area:

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense, Pleurocorallium secundum, Corallium* sp., or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.165 unless:

* * * * *

■ 23. In § 665.165, revise paragraphs (a) and (b) to read as follows:

§ 665.165 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense, Pleurocorallium secundum,* or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) Live black coral harvested from any precious coral permit area must have attained either a minimum stem diameter of 1 inch (2.54 cm), or a minimum height of 48 inches (122 cm).

■ 24. In § 665.167, revise paragraph (d) to read as follows:

§ 665.167 Quotas.

* * * * *

(d) *Exploratory areas.* The American Samoa exploratory permit area X–P–AS has an annual quota of 1,000 kg for all American Samoa precious coral ECS combined with the exception of black corals.

■ 25. In § 665.201, add the definition of ''Hawaii bottomfish ecosystem component species'' in alphabetical order, revise the definitions of ''Hawaii bottomfish management unit species'' and ''Main Hawaiian Islands non-commercial bottomfish permit,'' and in the definition of ''Seamount Groundfish,'' revise the entry for ''Armorhead'' to read as follows:

§ 665.201 Definitions.

* * * * *

Hawaii bottomfish ecosystem component species (Hawaii bottomfish ECS) means those species that are not listed as Hawaii bottomfish MUS and that are identified as ECS in Table 4 of the Hawaii FEP.

Hawaii bottomfish management unit species (Hawaii bottomfish MUS) means the following species:

Local name	Common name	Scientific name
lehi	silver jaw jobfish	*Aphareus rutilans*.
uku	gray jobfish	*Aprion virescens*.
hapu'upu'u	sea bass	*Hyporthodus quernus*.
ehu	squirrelfish snapper	*Etelis carbunculus*.
onaga	longtail snapper	*Etelis coruscans*.
'opakapaka	pink snapper	*Pristipomoides filamentosus*.
kalekale	pink snapper	*Pristipomoides seiboldii*.
gindai	snapper	*Pristipomoides zonatus*.

* * * * *

Main Hawaiian Islands non-commercial bottomfish permit means the permit required by § 665.203(a)(2) to own or fish from a vessel that is used in any non-commercial vessel-based fishing, landing, or transshipment of any Hawaii bottomfish MUS or ECS in the MHI Management Subarea.

* * * * *

Seamount Groundfish * * *

Common name	Scientific name
Armorhead	*Pentaceros wheeleri*.

* * * * *

■ 26. In § 665.203, revise paragraphs (a)(1) and (2), (e)(1), and (j)(1) to read as follows:

§ 665.203 Permits.

(a) * * *

(1) *Northwestern Hawaiian Islands.* The owner of any vessel used to fish for, land, or transship Hawaii bottomfish MUS or ECS shoreward of the outer boundary of the NWHI subarea must have a permit issued under this section, and the permit must be registered for use with that vessel. PIRO will not register a single vessel for use with a Ho'omalu Zone permit and a Mau Zone permit at the same time. Mau Zone permits issued before June 14, 1999, became invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (b)(3) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omalu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(2) *MHI non-commercial.* The owner of a vessel that is used for and any person who participates in non-commercial, vessel-based fishing, landing, or transshipment of Hawaii bottomfish MUS or ECS in the MHI management subarea is required to obtain an MHI non-commercial bottomfish permit or a State of Hawaii Commercial Marine License. If one or more persons on a vessel-based bottomfish fishing trip holds an MHI non-commercial permit, then the entire trip is considered non-commercial, and not commercial. However, if any commercial fishing occurs during or as a result of a vessel-based fishing trip,

then the fishing trip is considered commercial, and not non-commercial. Charter boat customers are not subject to the requirements of the section.

* * * * *

(e) * * *

(1) A qualifying landing for Ho'omalu Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of Hawaii bottomfish MUS or ECS from the Ho'omalu Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalu Zone, of which at least 50 percent by weight was Hawaii bottomfish MUS or ECS. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

* * * * *

(j) * * *

(1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of Hawaii bottomfish MUS or ECS per trip during the calendar year. Only one landing of bottomfish MUS or ECS per fishing trip to the Mau Zone will be counted toward the landing requirement.

* * * * *

■ 27. In § 665.204, revise paragraphs (a), (b), (g), and (k) to read as follows:

§ 665.204 Prohibitions.

* * * * *

(a) Fish for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS using gear prohibited under § 665.206.

(b) Fish for, or retain on board a vessel, Hawaii bottomfish MUS or ECS in the Ho'omalu Zone or the Mau Zone without the appropriate permit registered for use with that vessel issued under § 665.13.

* * * * *

(g) Own a vessel or fish from a vessel that is used to fish non-commercially for any Hawaii bottomfish MUS or ECS in the MHI management subarea without either a MHI non-commercial bottomfish permit or a State of Hawaii Commercial Marine License, in violation of § 665.2 or § 665.203(a)(2).

* * * * *

(k) Fish for or possess any Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the Hancock Seamounts Ecosystem Management Area, in violation of § 665.209.

■ 28. In § 665.205, revise paragraph (b) to read as follows:

§ 665.205 Notification.

* * * * *

(b) The operator of a fishing vessel that has taken Hawaii bottomfish MUS or ECS in the Ho'omalu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

■ 29. Revise § 665.206 to read as follows:

§ 665.206 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 665.203 or otherwise established to be fishing for Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the management subareas is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting Hawaii bottomfish MUS or ECS, or seamount groundfish MUS is prohibited.

■ 30. Revise § 665.209 to read as follows:

§ 665.209 Fishing moratorium at Hancock Seamounts.

Fishing for, and possession of, Hawaii bottomfish MUS or ECS, or seamount groundfish MUS in the Hancock Seamounts Ecosystem Management Area is prohibited until the Regional Administrator determines that the armorhead stock is rebuilt.

■ 31. Revise § 665.210 to read as follows:

§ 665.210 Hawaii restricted bottomfish species.

Hawaii restricted bottomfish species means the following species:

Local name	Common name	Scientific name
lehi	silver jaw jobfish	*Aphareus rutilans.*
ehu	squirrelfish snapper	*Etelis carbunculus.*
onaga	longtail snapper	*Etelis coruscans.*
ʻopakapaka	pink snapper	*Pristipomoides filamentosus.*
kalekale	pink snapper	*Pristipomoides sieboldii.*
gindai	snapper	*Pristipomoides zonatus.*
hapuʻupuʻu	sea bass	*Hyporthodus quernus.*

■ 32. Revise § 665.221 to read as follows:

§ 665.221 Definitions.

As used in §§ 665.220 through 665.239, *Hawaii coral reef ecosystem component species (Hawaii coral reef ECS)* means those species identified as ECS in the Hawaii FEP and are not defined as MUS or another ECS in this subpart.

■ 33. Revise § 665.223 to read as follows:

§ 665.223 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the Hawaii coral reef ecosystem management area, fishing for Hawaii coral reef ECS is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of whether that refuge was established by action of the President or the Secretary of the Interior.

■ 34. In § 665.224, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.224 Permits and fees.

(a) * * *

(1) *Special permit.* Any person of the United States fishing for, taking or retaining Hawaii coral reef ECS must have a special permit if they, or a vessel which they operate, is used to fish for any:

(i) Hawaii coral reef ECS in low-use MPAs as defined in § 665.199;

(ii) Hawaii coral reef ECS in the coral reef ecosystem management area; or

(iii) Hawaii coral reef ECS in the coral reef ecosystem management area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is

used in the Hawaii coral reef ecosystem management area to land or transship Hawaii coral reef ECS harvested within low-use MPAs.

(3) * * *

(i) Any person issued a permit to fish under any FEP who incidentally catches Hawaii coral reef ECS while fishing for bottomfish MUS or ECS, crustacean MUS, western Pacific pelagic MUS, precious corals, or seamount groundfish;

(ii) Any person fishing for Hawaii coral reef ECS outside of an MPA, who does not retain any Hawaii coral reef ECS; and

* * * * *

■ 35. In § 665.225, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.225 Prohibitions.

* * * * *

(a) Fish for, take, retain, possess or land any Hawaii coral reef ECS in any low-use MPA as defined in § 665.99 unless:

* * * * *

(3) The Hawaii coral reef ECS possessed on board the vessel originated outside the management area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any Hawaii coral reef ECS:

* * * * *

■ 36. Revise § 665.226 to read as follows:

§ 665.226 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any Hawaii coral reef ECS harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

■ 37. In § 665.227, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.227 Allowable gear and gear restrictions.

(a) Hawaii coral reef ECS may be taken only with the following allowable gear and methods:

* * * * *

(b) Hawaii coral reef ECS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ECS in the management area is prohibited.

* * * * *

■ 38. In § 665.228, revise paragraph (a) to read as follows:

§ 665.228 Gear identification.

(a) The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under § 665.13 or § 665.124 or that is otherwise established to be fishing for Hawaii coral reef ECS in the management area.

* * * * *

■ 39. In § 665.241, add the definition of ''Hawaii crustacean ecosystem component species'' in alphabetical order and revise the definition of ''Hawaii crustacean management unit species'' to read as follows:

§ 665.241 Definitions.

* * * * *

Hawaii crustacean ecosystem component species (Hawaii crustacean ECS) means those species identified as ECS in the Hawaii FEP.

* * * * *

Hawaii crustacean management unit species (Hawaii crustacean MUS) means the following crustaceans:

Local name	Common name	Scientific name
papa'i kua loa	Kona crab	*Ranina ranina*.
	deepwater shrimp, nylon shrimp	*Heterocarpus* sp.

* * * * *

■ 40. In § 665.242, revise paragraph (a)(4) to read as follows:

§ 665.242 Permits.

(a) * * *

(4) Harvest of Hawaii crustacean MUS or ECS within the Northwestern Hawaiian Islands Marine National Monument is subject to the requirements of 50 CFR part 404.

* * * * *

■ 41. In § 665.261, add the definition of ''Hawaii precious coral ecosystem component species'' in alphabetical order and revise the definition of ''Hawaii precious coral management unit species'' to read as follows:

§ 665.261 Definitions.

* * * * *

Hawaii precious coral ecosystem component species (Hawaii precious coral ECS) means those species identified as ECS in the Hawaii FEP.

Hawaii precious coral management unit species (Hawaii precious coral MUS) means the following species:

Common name	Scientific name
Pink coral	*Pleurocorallium secundum*.
Red coral	*Hemicorallium laauense*.
Gold coral	*Kulamanamana haumeaae*.
Bamboo coral	*Acanella* sp.
Black coral	*Antipathes griggi, Antipathes grandis, Myriopathes ulex*.

* * * * *

■ 42. In § 665.262, revise paragraph (a) to read as follows:

§ 665.262 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining Hawaii precious coral MUS or ECS in any Hawaiian Archipelago precious coral permit area must have a permit issued under § 665.13.

* * * * *

■ 43. In § 665.263, revise the introductory text of paragraphs (b) and (c) to read as follows:

§ 665.263 Prohibitions.

* * * * *

(b) Fish for, take, or retain any species of Hawaii precious coral MUS or Hawaii precious coral ECS in any precious coral permit area:

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense, Pleurocorallium secundum, Corallium* sp., or live black coral from any

precious coral permit area that is less than the minimum height specified in § 665.265 unless:

* * * * *

■ 44. In § 665.265, revise paragraphs (a) and (b) to read as follows:

§ 665.265 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense, Pleurocorallium secundum,* or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) Live black coral harvested from any precious coral permit area must have attained either a minimum stem diameter of 1 inch (2.54 cm), or a minimum height of 48 inches (122 cm).

■ 45. Revise § 665.270 to read as follows:

§ 665.270 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral MUS or ECS in any precious coral permit area is prohibited through June 30, 2023.

■ 46. In § 665.401, add the definition of ''Mariana bottomfish ecosystem component species'' in alphabetical order and revise the definition of ''Mariana bottomfish management unit species'' to read as follows:

§ 665.401 Definitions.

* * * * *

Mariana bottomfish ecosystem component species (Mariana bottomfish ECS) means those species identified as ECS in the Marianas Archipelago FEP and not defined as Mariana bottomfish MUS.

Mariana bottomfish management unit species (Mariana bottomfish MUS) means the following fish:

Local name	Common name	Scientific name
lehi/maroobw	red snapper, silvermouth	*Aphareus rutilans*.
tarakitu/etam	giant trevally, jack	*Caranx ignobilis*.
tarakiton attelong, orong	black trevally, jack	*Caranx lugubris*.
bueli, bwele	lunartail grouper	*Variola louti*.
buninas agaga', falaghal moroobw	red snapper	*Etelis carbunculus*.
abuninas, taighulupegh	red snapper	*Etelis coruscans*.
mafuti, atigh	redgill emperor	*Lethrinus rubrioperculatus*.
funai, saas	blueline snapper	*Lutjanus kasmira*.
buninas, falaghal-maroobw	yellowtail snapper	*Pristipomoides auricilla*.
buninas, pakapaka, falaghal-maroobw,	pink snapper	*Pristipomoides filamentosus*.
buninas, falaghal-maroobw	yelloweye snapper	*Pristipomoides flavipinnis*.
	pink snapper	*Pristipomoides seiboldii*.
buninas rayao amariyu, falaghal-maroobw	flower snapper	*Pristipomoides zonatus*.

■ 47. In § 665.403, revise paragraph (a) introductory text to read as follows:

§ 665.403 Bottomfish fishery area management.

(a) *Guam large vessel bottomfish prohibited area (Area GU–1).* A large vessel of the United States, as defined in § 665.12, may not be used to fish for Mariana bottomfish MUS or ECS in the Guam large vessel bottomfish prohibited area, defined as the U.S. EEZ waters surrounding Guam that are enclosed by straight lines connecting the following coordinates in the order listed:

* * * * *

■ 48. In § 665.404, revise paragraphs (a)(1) and (2) to read as follows:

§ 665.404 Permits.

(a) * * *

(1) *Guam large vessel.* The owner of any large vessel used to fish for, land, or transship Mariana bottomfish MUS or ECS shoreward of the outer boundary of the Guam subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) *Commonwealth of the Northern Mariana Islands (CNMI) commercial.* The owner of any vessel used to commercially fish for, transship, receive, or land Mariana bottomfish MUS or ECS shoreward of the outer boundary of the CNMI management subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

* * * * *

■ 49. Revise § 665.405 to read as follows:

§ 665.405 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to do any of the following:

(a) Fish for Mariana bottomfish MUS or ECS using gear prohibited under § 665.406.

(b) Use a large vessel that does not have a valid Guam bottomfish permit registered for use with that vessel to fish for, land, or transship Mariana bottomfish MUS or ECS shoreward of the outer boundary of the Guam management subarea of the bottomfish fishery management area in violation of § 665.404(a).

(c) Use a large vessel to fish for Mariana bottomfish MUS or ECS within the Guam large vessel bottomfish prohibited area, as defined in § 665.403(a).

(d) Land or transship, shoreward of the outer boundary of the Guam management subarea of the bottomfish fishery management area, Mariana bottomfish MUS or ECS that were harvested in violation of § 665.405(c).

(e) Use a vessel to fish commercially for Mariana bottomfish MUS or ECS in the CNMI management subarea without a valid CNMI commercial bottomfish permit registered for use with that vessel, in violation of § 665.404(a)(2).

(f) Falsify or fail to make, keep, maintain, or submit a Federal logbook as required under § 665.14(b) when using a vessel to engage in commercial fishing for Mariana bottomfish MUS or ECS in the CNMI management subarea in violation of § 665.14(b).

■ 50. Revise § 665.421 to read as follows:

§ 665.421 Definitions.

As used in §§ 665.420 through 665.439, *Mariana coral reef ecosystem component species* (*Mariana coral reef ECS)* are those species identified in the Marianas Archipelago FEP and are not defined as MUS or another ECS in this subpart.

■ 51. Revise § 665.423 to read as follows:

§ 665.423 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the Mariana coral reef ecosystem management area, fishing for Mariana coral reef ECS is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of

whether that refuge was established by action of the President or the Secretary of the Interior.

■ 52. In § 665.424, revise paragraphs (a)(1) and (2) and (a)(3)(i) and (ii) to read as follows:

§ 665.424 Permits and fees.

(a) * * *

(1) *Special permit.* Any person of the United States fishing for, taking or retaining Mariana coral reef ECS must have a special permit if they, or a vessel which they operate, is used to fish for any:

(i) Mariana coral reef ecosystem MUS ECS in low-use MPAs as defined in § 665.399;

(ii) Mariana coral reef ECS in the coral reef ecosystem management area; or

(iii) Mariana coral reef ECS in the Mariana coral reef ecosystem management area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is used in the Mariana coral reef ecosystem management area to land or transship any Mariana coral reef ECS harvested within low-use MPAs.

(3) * * *

(i) Any person issued a permit to fish under any FEP who incidentally catches Mariana coral reef ECS while fishing for bottomfish MUS or ECS, crustacean ECS, western Pacific pelagic MUS, precious coral ECS, or seamount groundfish MUS.

(ii) Any person fishing for Mariana coral reef ECS outside of an MPA, who does not retain any Mariana coral reef ECS.

* * * * *

■ 53. In § 665.425, revise paragraphs (a) introductory text, (a)(3), and (b) introductory text to read as follows:

§ 665.425 Prohibitions.

* * * * *

(a) Fish for, take, retain, possess or land any Mariana coral reef ECS in any low-use MPA as defined in § 665.12 unless:

* * * * *

(3) The Mariana coral reef ECS possessed on board the vessel originated outside the management area, and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any Mariana coral reef ECS species:

* * * * *

■ 54. Revise § 665.426 to read as follows:

§ 665.426 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any Mariana coral reef ECS harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

■ 55. In § 665.427, revise paragraphs (a) introductory text and (b) to read as follows:

§ 665.427 Allowable gear and gear restrictions.

(a) Mariana coral reef ECS may be taken only with the following allowable gear and methods:

* * * * *

(b) Mariana coral reef ECS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ECS in the management area is prohibited.

* * * * *

■ 56. In § 665.441, add the definition of ''Mariana crustacean ecosystem component species'' in alphabetical order and remove the definition of ''Mariana crustacean management unit species'' to read as follows:

§ 665.44 Definitions.

* * * * *

Mariana crustacean ecosystem component species (Mariana crustacean ECS) means those species identified as ECS in the Marianas Archipelago FEP.

■ 57. In § 665.442, revise paragraph (a)(2) to read as follows:

§ 665.442 Permits.

(a) * * *

(2) The owner of any vessel used to fish for *Heterocarpus* sp. in Crustacean Permit Area 5 must have a permit issued for that vessel.

* * * * *

■ 58. Revise § 665.443 to read as follows:

§ 665.443 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person in Crustacean Permit Area 5 to fish for, take, or retain *Heterocarpus* sp. without a permit issued under § 665.442.

■ 59. In § 665.461, add introductory text and the definition of ''Mariana precious coral ecosystem component species'' in alphabetical order and remove the definition of ''Mariana precious coral management unit species'' to read as follows:

§ 665.461 Definitions.

As used in §§ 665.460 through 665.470:

Mariana precious coral ecosystem component species (Mariana precious coral ECS) means those species identified as ECS in the Marianas Archipelago FEP.

* * * * *

■ 60. In § 665.462, revise paragraph (a) to read as follows:

§ 665.462 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining Mariana precious coral ECS in any Mariana Archipelago precious coral permit area must have a permit issued under § 665.13.

* * * * *

■ 61. In § 665.463, revise paragraphs (a), (b) introductory text, and (c) introductory text to read as follows:

§ 665.463 Prohibitions.

* * * * *

(a) Use any vessel to fish for, take, retain, possess or land Mariana precious coral ECS in any Mariana precious coral permit area, unless a permit has been issued for that vessel and area as specified in § 665.13 and that permit is on board the vessel.

(b) Fish for, take, or retain any species of Mariana precious coral ECS in any Mariana precious coral permit area:

* * * * *

(c) Take and retain, possess, or land any live *Hemicorallium laauense, Pleurocorallium secundum, Corallium* sp., or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.465 unless:

* * * * *

■ 62. In § 665.465, revise paragraphs (a) and (b) to read as follows:

§ 665.465 Size restrictions.

* * * * *

(a) Live *Hemicorallium laauense, Pleurocorallium secundum,* or *Corallium* sp. harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) Live black coral harvested from any precious coral permit area must have attained either a minimum stem diameter of 1 inch (2.54 cm), or a minimum height of 48 inches (122 cm).

[FR Doc. 2018–19341 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 178
Thursday, September 13, 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

Office of the Secretary

Extension of Period To Submit Expression of Interest for Potential Sites for Headquarters Office Locations

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (USDA) is extending the period for interested parties to submit an expression of interest for a proposed new headquarters location for the National Institute of Food and Agriculture (NIFA) and the Economic Research Service (ERS). The Department is extending the period to submit an expression of interest for 30 days.

DATES: The notice of a request to submit expression of interests published on Wednesday, August 15, 2018 is being extended. Interested parties wishing to submit an expression of interest should do so in writing by October 15, 2018.

ADDRESSES: Interested parties are invited to submit comments regarding this notice. All submissions must refer to ''Expression of Interest'' to ensure proper delivery.

- *Electronic Submission of Expression of Interest.* Interested persons may submit information electronically to the following email address *relocation@usda.gov.*
- *Submission of Comments by Mail, Hand delivery, or Courier.* Paper, disk, or CD–ROM submissions should be submitted to Donald K. Bice, Deputy Assistant Secretary, Office of the Assistant Secretary for Administration, USDA, Jamie L. Whitten Building, Room 240–W, 1400 Independence Ave. SW, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Donald K. Bice, Telephone Number: (202) 720–3291.

SUPPLEMENTARY INFORMATION: On Wednesday, August 15, 2018 (83 FR 40499), the Department published a notice of a request for expression of interest for potential sites for headquarters office locations for NIFA and ERS. USDA is interested in exploring options to house the headquarters of NIFA and ERS jointly or in separate locations. The original deadline to submit an expression of interest was September 14, 2018. This action extends the submission period for 30 days. Submissions must now be received on or before October 15, 2018.

Dated: September 7, 2018.

Donald K. Bice,

Deputy Assistant Secretary for Administration.

[FR Doc. 2018–19877 Filed 9–12–18; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FSIS–2018–0036]

Joint Public Meeting on the Use of Cell Culture Technology To Develop Products Derived From Livestock and Poultry

AGENCY: Food Safety and Inspection Service, USDA; Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) are hosting a joint public meeting to discuss the potential hazards, oversight considerations, and labeling of cell cultured food products derived from livestock and poultry tissue. FSIS and FDA officials will make presentations on their roles and responsibilities relative to the production and labeling of safe and wholesome food and their respective regulatory frameworks, including their inspection systems, as a basis for discussing what oversight framework might be most appropriate for cell cultured food products derived from livestock and poultry. Representatives of industry, interested individuals, and other stakeholders are invited to participate in the meeting.

DATES: The public meeting will be held on Tuesday, October 23, 2018 from 8:30 a.m. to 4:00 p.m., and Wednesday, October 24, 2018, from 8:30 a.m. to 3:00 p.m. EDT. Submit either electronic or written comments on this public meeting by November 26, 2018.

ADDRESSES: The meeting will be held at the Jefferson Auditorium in the South Building, U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW, Washington, DC 20250. Attendance is free. Non-USDA employees must enter through the Wing 5 entrance on Independence Avenue. The South Building is a Federal facility and attendees should plan to take adequate time to pass through the security screening system. Attendees must show a valid photo ID to enter the building.

FOR FURTHER INFORMATION CONTACT: Roxanne Smith, Director, Congressional and Public Affairs in the FSIS Office of Public Affairs and Consumer Education at (202) 720–4413 or *roxanne.smith@fsis.usda.gov;* as well as Juanita Yates, Public Affairs Specialist in the FDA Center for Food Safety and Applied Nutrition at (240) 402–1731 or *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Further information on this meeting will be posted on the FSIS website at: *https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings* and through the FSIS Constituent Update, and on the FDA website at: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Background

FSIS is the public health agency responsible for ensuring that meat, poultry, and egg products are safe, wholesome, and accurately labeled. FDA has responsibility for ensuring the safety of all other foods, including seafood (except catfish) and game animals as well as ensuring that the labels of these foods contain useful and reliable information.

Animal cell culture food technology, as will be discussed at the public meeting, refers to the controlled growth of animal cells from livestock, poultry, fish, or other animals, their subsequent differentiation into various cell types, and their collection and processing into food. Full tissue formation in culture is

an active medical research area, as well as a strong focus of commercial interest for food applications. Many companies, both domestic and foreign, are actively developing products using this technology. Some of these products are being designed to have the same or similar compositional, nutritional, and organoleptic characteristics as traditional meat and poultry products. Once produced, the harvested cells could potentially be processed, packaged, and marketed in the same, or similar, manner as traditional meat and poultry products.

In the past several months, FSIS has received a significant amount of correspondence regarding the food products of animal cell culture technology. Much of the correspondence is in regard to a petition from the United States Cattlemen's Association to FSIS requesting, among other things, that FSIS prohibit products derived from livestock and manufactured using animal cell culture technology from being labeled or marketed as ''beef'' or ''meat.'' The publication of this petition and related comments received by FSIS has brought significant attention to animal cell culture based food products. To date, FSIS has received over 6,100 comments on this petition from industry trade associations; consumer advocacy groups; firms operating in the meat, poultry, and/or cell culture based food product markets; and consumers. In recent years, FDA also has been contacted by firms interested in developing foods that incorporate cultured animal cells from various species and has had a number of stakeholder engagements on this topic.

FDA, with USDA's participation, is developing technical questions related to cell cultured food products to put before FDA's Science Advisory Board on October 22, 2018 (notice will be published in an upcoming issue of the **Federal Register**). The intent of these questions is to support a process for identifying potential hazards, assessing risks, and establishing control measures appropriate to each risk for cell cultured food products. The dialogue with stakeholders at the joint public meeting that is the subject of this announcement will be informed by the FDA Science Board discussion, which will occur the previous day.

Topics for Discussion at the Joint Public Meeting

Given the high level of public interest, FSIS and FDA will be holding this joint public meeting in October to further discuss cell culture technology and provide the public with an opportunity to provide comments. The first day of the meeting will focus primarily on the potential hazards that need to be controlled for the safe production of animal cell cultured food products and oversight considerations by regulatory agencies. The second day of the meeting will focus on labeling considerations. General topics to be covered and discussed include:

- Potential hazards associated with the production of these products and a discussion on whether they are the same hazards as those associated with traditional meat and poultry products. What are the most significant sources of potential hazards for each and how are they similar and different?
- Strategies to ensure that all potential hazards are identified and appropriately controlled, including consideration of various factors relevant to determining oversight activities for these products, such as:
  - Is there an effective and efficient application of pre-market programs to ensure the safety of foods produced by animal cell culture?
  - What type and frequency of inspection will be appropriate for various stages of the manufacture of these products?
  - What type and frequency of inspection will be appropriate for products that combine cell cultured food products and other ingredients (*e.g.,* multicomponent foods like soups, protein bars that contain cell cultured protein as an ingredient, or products that contain both traditional meat or poultry as well as cell cultured ingredients, including food products of animal cell culture derived from livestock and poultry tissue)?
- FSIS and FDA are actively working to reduce the duplicative and inefficient regulation of establishments and products under both agencies' jurisdiction. How could this be done for products of animal cell culture derived from livestock and poultry?
- What factors should be considered in the labeling of products of animal cell culture? Questions include:
  - Should standards of identity or criteria for statements of identity be established for these products to ensure that product names are truthful, not misleading, and sufficiently differentiate cell cultured products from traditional products?
  - Should the methods by which animal cell cultured products are produced (*i.e.,* the culturing process be considered required information for purposes of labeling? If so, what factors should be considered in accurately describing the production methods?
  - Should the source of the animal cells (*i.e.,* the species from which the cell line was initiated) be considered required information for the purposes of labeling?
  - What factors should be considered in potentially allowing health, safety, and other claims in the marketing of animal cell cultured products?
  - How should products containing both animal cell cultured products and traditional meat and poultry products be labeled?

Public Comments and Participation in Meetings

Registration

To register for the public meeting, please visit the following website: *https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/meetings-archive/upcoming-meetings/meeting-registration-cell-culture-technology*. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and voluntary and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting are requested to register by Friday, October 19, 2018, although non-registered attendees may still participate subject to availability. Early registration is recommended because seating is limited. Registrants will receive confirmation of their registration.

Accommodations for Persons With Disabilities

To request accommodations due to a disability, please indicate any accommodations needed when registering. FSIS and FDA will provide sign language interpreters for this meeting.

Attendees from the media will also be asked to identify themselves during the registration process.

Public Comments: Oral Comments

Stakeholders will have an opportunity to provide oral comments during the public meeting. Due to the anticipated high level of interest in the opportunity to make public comments and the limited time available to do so, FSIS and FDA encourage participants to indicate when registering if they wish to give public comment during a public comment session and which topic(s) you wish to address. FSIS and FDA will do their best to accommodate all persons who wish to express an opinion. FSIS and FDA encourage persons and groups who have similar

interests to consolidate their information for presentation by a single representative and request time for a joint presentation. Speakers will be limited to making oral remarks; there will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. No commercial or promotional material will be permitted to be presented or distributed at the public meeting. All requests to make oral presentations should be received by Friday, October 19, 2018.

Public Comments: Written Comments

Any stakeholder wishing to submit written comments prior to the meeting may do so, and may also submit comments after the meeting, using any of the following methods: *Electronically:* Go to *http://www.regulations.gov/* and follow the online instructions for submitting comments to docket FSIS–2018–0036; *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700; *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name (in this case FDA and FSIS) and docket number FSIS–2018–0036. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov/.* Comments must be received by November 26, 2018.

On July 12, 2018, FDA held a public meeting on foods produced using animal cell culture technology. Comments received in response to that meeting will be reviewed jointly by FDA and FSIS. There is no need to resubmit comments already submitted to FDA.

Docket: For access to background documents or comments received, go to *https://www.regulations.gov* and insert docket number FSIS–2018–0036 into the ''Search'' box and follow the prompts; and/or call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Question-and-Answer Periods

Time has been allotted for audience questions after most presentations delivered during the meeting. Participants will have the opportunity to ask questions via a microphone in the auditorium.

Streaming Webcast of the Public Meeting

This public meeting will also be webcast. Webcast participants are asked to preregister at *https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/meetings-archive/upcoming-meetings/meeting-registration-cell-culture-technology.*

Transcripts

The transcript of the proceedings from the public meeting will become part of the administrative record. As soon as the meeting transcripts are available, they will be accessible at *https://www.regulations.gov;* on the FSIS website at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings;* or on the FDA website at *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.* The transcripts may also be viewed at the FSIS Docket Room at the addressed listed above.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register* and on the FDA website at: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Constituent Update is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at: *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on September 7, 2018.

Paul Kiecker,

Acting Administrator.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19907 Filed 9–10–18; 4:15 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Performance Review Board Membership

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the Economics and Statistics Administration (ESA) announces the appointment of members who will serve on the ESA Performance Review Board (PRB). The purpose of the PRB is to provide fair and impartial review of senior executive service and scientific

and professional performance appraisals, bonus recommendations, pay adjustments and Presidential Rank Award nominations. The term of each PRB member will expire on December 31, 2020.

DATES: The effective date of service of appointees to the ESA Performance Review Board is based upon publication of this notice.

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the PRB are set forth below:

John M. Abowd, Associate Director for Research and Methodology, Census Bureau
Joanne Buenzli Crane, Chief Financial Officer, Census Bureau
Gregory Capella, Deputy Director, National Technical Information Service
Paul Farello, Associate Director for International Economics, Bureau of Economic Analysis (BEA)
Albert Fontenot, Jr., Associate Director for Decennial Census Programs, Census Bureau
Ron Jarmin, Deputy Director, Census Bureau
Enrique Lamas, Associate Director for Demographic Programs, Census Bureau
Brian Lenihan, Senior Advisor to the Chief of Staff, Office of the Secretary (OS)
Edith J. McCloud, Associate Director for Management, Minority Business Development Agency
Brian C. Moyer, Director, BEA
Timothy Olson, Associate Director for Field Operations, Census Bureau
Nick Orsini, Associate Director for Economic Programs, Census Bureau
Jeremy Pelter, Chief Financial Officer and Director for Administration, ESA
Joel D. Platt, Associate Director for Regional Economics, BEA
Joseph Semsar, Senior Advisor, ESA
Tyra Dent Smith, Deputy Director for Human Resources Management, OS
Kevin Smith, Associate Director for Information Technology and Chief Information Officer, Census Bureau
Erich Strassner, Associate Director for National Economic Accounts, BEA
Sarahelen Thompson, Deputy Director, BEA
David R. Ziaya, Chief Administrative Officer, Census Bureau

FOR FURTHER INFORMATION CONTACT: Latasha Ellis, Program Manager, Executive Resources Office, Human Resources Division, Census Bureau, 4600 Silver Hill Road, Washington, DC 20233, 301–763–3727.

Dated: September 6, 2018.

Brian C. Moyer,

Director, BEA, Chair, ESA Performance Review Board.

[FR Doc. 2018–19980 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–BS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments and Partial Rescission of the Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain frozen fish fillets from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than normal value (NV) during the period of review (POR), August 1, 2016, through July 31, 2017.

DATES: Applicable September 13, 2018.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, 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) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 2017, Commerce published in the **Federal Register** the notice of initiation of an administrative review of the antidumping duty (AD) order on frozen fish fillets from Vietnam.[1] Commerce initiated a review with respect to 74 companies,[2] and selected two of these companies, Hung Vuong Group (HVG) and NTSF Seafoods Joint Stock Company (NTSF), as mandatory respondents.[3] On March 22, 2018, Commerce partially extended the deadline for issuing the preliminary results.[4] On June 14, 2018, Commerce fully extended the preliminary results of review to September 4, 2018.[5]

Scope of the Order

The product covered by this review is certain frozen fish fillets from the Socialist Republic of Vietnam. For a full description of the scope see the Preliminary Decision Memorandum dated concurrently with and hereby adopted by this notice.[6]

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Between December 26, 2017 and January 12, 2018, we received timely withdrawal of review requests for 47 companies from the petitioners and self-requested companies. Of these 47 companies, 34 do not have any other outstanding review requests. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the AD order on certain frozen fish fillets from Vietnam with respect to these 34 companies.[7] The review will continue with respect to the other firms for which a review was requested and initiated.

Preliminary Determination of No Shipments

Based on the no-shipments letters filed by three companies, Commerce preliminarily determines that these companies had no shipments during the POR. For additional information regarding this determination, including a list of these companies, *see* the Preliminary Decision Memorandum. Consistent with our assessment practice in non-market economy (NME) administrative reviews, Commerce is not rescinding this review for these companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.[8]

Separate Rates

Commerce preliminarily determines that information placed on the record by the mandatory respondents HVG and NTSF, as well as by the four other separate rate applicants, demonstrates that these companies are entitled to

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 48051 (October 16, 2017) (*Initiation Notice*); *see* also Appendix I therein for the complete list of all companies upon which Commerce initiated an administrative review.

[2] *Id.*

[3] *See* Commerce Memorandums dated January 5, 2018 (HVG), and February 7, 2018 (NTSF).

[4] *See* Commerce Memorandum dated June 14, 2018.

[5] *See* Commerce Memorandum dated March 22, 2018.

[6] *See* Commerce Memorandum, ''Decision Memorandum for the Preliminary Results of the 2016–2017 Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[7] *See* Appendix II for a full list of rescinded companies.

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

separate rate status. *See* Preliminary Results of Review section below. For additional information, *see* the Preliminary Decision Memorandum.

Vietnam-Wide Entity

Commerce's policy regarding conditional review of the Vietnam-wide entity applies to this administrative review.[9] Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity in this review, the entity is not under review and the weighted-average dumping margin determined for the Vietnam-wide entity is not subject to change (*i.e.,* $2.39 per kilogram) as a result of this review.[10] Aside from the companies discussed above, Commerce considers all other companies for which a review was requested to be part of the Vietnam-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Act. Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is an NME country within the meaning of section 771(18) of the Act, normal value (NV) has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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 on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2016, through July 31, 2017:

Exporter/producer	Weighted-average dumping margin and cash deposit rate (dollars per kilogram)
Hung Vuong Group	0.00
NTSF Seafoods Joint Stock Company	1.37
C.P. Vietnam Corporation	0.41
Cuu Long Fish Joint Stock Company	0.41
Green Farms Seafood Joint Stock Company	0.41
Vinh Quang Fisheries Corporation	0.41

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this administrative review 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.

Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Assessment Rates

For those companies for which Commerce is rescinding this review, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries, consistent with 19 CFR 351.212(b)(1).[12] For these companies, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period August 1, 2016, through July 31, 2017, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instruction to CBP 15 days after publication of this notice.

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[13] Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is not zero or *de minimis* (*i.e.,* less than 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 those sales, in accordance with 19 CFR 351.212(b)(1). Where an importer-specific *ad valorem* rate is not zero or *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[14] Where either

[9] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[10] *Id.*

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See* Appendix II.

[13] *See* 19 CFR 351.212(b).

[14] *See* 19 CFR 351.212(b)(1).

a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then cash deposit rate will be zero); (2) for previously examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate based on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate at the time of entry, the cash deposit rate will be that for the Vietnam-wide entity (*i.e.,* $2.39 per kilogram); and (4) for all non-Vietnamese exporters of subject merchandise which at the time of entry are not eligible for a separate rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam 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 the POR. 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.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 4, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Case History
3. Scope of the Order
4. Affiliations
5. Partial Rescission
6. Selection of the Respondents
7. Preliminary Determination of No Shipments
8. Non-Market Economy Country Status
9. Separate Rates
10. Vietnam-Wide Entity
11. Surrogate Country
12. Date of Sale
13. Normal Value Comparisons
14. Comparisons to Normal Value
15. Results of the Differential Pricing Analysis
16. Currency Conversion
17. Recommendation

Appendix II

(1) An Giang Agriculture and Foods Import-Export Joint Stock Company (also known as Afiex, An Giang Agriculture and Foods Import-Export Joint Stock Company, An Giang Agriculture and Food Import-Export Company, or An Giang Agriculture and Foods Import and Export Company)
(2) An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)
(3) An Phat Import-Export Seafood Co. Ltd. (also known as An Phat Seafood Co. Ltd.)
(4) An Phu Seafood Corporation (also known as ASEAFOOD or An Phu Seafood Corp.)
(5) Anvifish Joint Stock Company (also known as Anvifish or Anvifish Co., Ltd.)
(6) Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)
(7) Basa Joint Stock Company (BASACO)
(8) Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct or Aquatex Bentre)
(9) Bentre Forestry and Aquaproduct Import-Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company or Ben Tre Forestry and Aquaproduct Import-Export Company or Ben Tre Forestry Aquaproduct Import-Export Company or Ben Tre Frozen Aquaproduct Export Company or Faquimex)
(10) Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., or Biendong Seafood Limited Liabilty Company)
(11) Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.) Binh Dinh Import Export Company (also known as Binh Dinh)
(12) Cafatex Corporation (also known as Cafatex)
(13) Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex)
(14) Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish)
(15) Da Nang Seaproducts Import-Export Corporation (also known as Da Nang or Da Nang Seaproducts Import/Export Corp.)
(16) Dai Thanh Seafoods Company Limited (also known as DATHACO or Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.)
(17) East Sea Seafoods LLC (also known as ESS LLC, ESS, ESS JVC, East Sea Seafoods Limited Liabiltiy Company, East Sea Seafoods Joint Venture Co., Ltd.)
(18) Fatifish Company Limited (also known as FATIFISH or FATIFISHCO)
(19) Go Dang An Hiep One Member Limited Company
(20) Go Dang Ben Tre One Member Limited Liability Company
(21) Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Houng Seafood)
(22) Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)
(23) Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH or Hoa Phat Seafood Import-Export and Processing Joint Stock Company)
(24) Hung Vuong—Mien Tay Aquaculture Corporation
(25) Hung Vuong Seafood Joint Stock Company
(26) International Development & Investment Corporation (also known as IDI)
(27) Lian Heng Investment Co., Ltd. (also known as Lien Heng Investment or Lian Heng)
(28) Lian Heng Trading Co., Ltd. (also known as Lian Heng or Lian Heng Trading)
(29) Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong or NAFISHCO or Nam Phuong Seafood or Nam PhuongSeafood Company Ltd.)
(30) Nam Viet Corporation (also known as NAVICO)
(31) Ngoc Ha Co., Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)
(32) Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company)
(33) NTACO Corporation (also known as NTACO or NTACO Corp.)
(34) Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.)
(35) QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT)
(36) QVD Food Company, Ltd. (also known as QVD or QVD Aqucuture)

[15] *See* 19 CFR 351.106(c)(2).

(37) Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.)
(38) Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4-Branch Dong Tam Fisheries Processing Company)
(39) Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., or Southern Fisheries Industries Company, Ltd.)
(40) Sunrise Corporation.
(41) TG Fishery Holdings Corporation (also known as TG)
(42) Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)
(43) Thien Ma Seafood Co., Ltd. (also known as THIMACO or Thien Ma or Thien Ma Seafood Company, Ltd. or Thien Ma Seafoods Co., Ltd.)
(44) Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., or Thuan An Production & Trading Service Co., Ltd.)
(45) Thuan Hung Co., Ltd. (also known as THUFICO)
(46) To Chau Joint Stock Company (also known as TOCHAU)
(47) Van Duc Food Export Joint Stock Company
(48) Van Duc Tien Giang Food Export Company
(49) Viet Hai Seafood Company Limited (also known as Viet Hai or Vietnam Fish-One Co., Ltd. or Viet Hai Seafood Co. or Fish One)
(50) Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation)
(51) Viet Phu Foods & Fish Co., Ltd.
(52) Vinh Hoan Corporation (also known as Vinh Hoan or Ving Hoan Co.)
(53) Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long or Vinh Long Import/Export Company)

[FR Doc. 2018–19931 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG479

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Meeting of the SEDAR Steering Committee.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR process and assessment schedule. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR Steering Committee will meet Monday, September 24, 2018, from 10 a.m. until 12 p.m.

ADDRESSES: The Steering Committee meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact John Carmichael at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) at least 24 hours in advance to request webinar access information.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: John Carmichael, Deputy Executive Director, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows:

1. SEDAR projects update

2. SEDAR assessment schedule

The Committee will discuss the agenda items and take action as necessary.

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

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C 1801 *et seq.*

Dated: September 10, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–19946 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Submission of Conservation Efforts To Make Listings Unnecessary Under the Endangered Species Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 13, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Angela Somma, (301) 427–8474 or *Angela.Somma@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

On March 28, 2003, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (Services) announced a final policy on the criteria the Services will use to evaluate conservation efforts by states and other non-Federal entities (68 FR 15100). The Services take these efforts into account when making decisions on whether to list a species as threatened or endangered under the Endangered Species Act. The efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

II. Method of Collection

NMFS does not require, but will accept, plans and reports electronically. NMFS has not developed a form to be used for submission of plans or reports.

In the past, NMFS has made plans and annual reports from states available through the internet and plans to continue this practice.

III. Data

OMB Control Number: 0648–0466.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations; State, local or tribal governments.

Estimated Number of Respondents: 1.

Estimated Time per Response: 2,500 hours to complete each agreement or plan that has the intention of making listing unnecessary; 320 hours to conduct monitoring for successful agreements; and 80 hours to prepare a report for successful agreements.

Estimated Total Annual Burden Hours: 2,820.

Estimated Total Annual Cost to Public: $150 in recordkeeping/reporting costs.

IV. Request for 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 10, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–19900 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG331

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Air Force Launching of Space Launch Vehicles, Intercontinental Ballistic and Small Missiles, and Aircraft and Helicopter Operations at Vandenberg Air Force Base, California

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

ACTION: Notice; receipt of application for Letters of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Air Force (USAF) for authorization to take marine mammals incidental to launching space launch vehicles, intercontinental ballistic and small missiles, and aircraft and helicopter operations at Vandenberg Air Force Base (VAFB), California, from March 27, 2019 through March 26, 2024. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the USAF's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the USAF's application and request.

DATES: Comments and information must be received no later than October 15, 2018.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Carduner@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the internet at *www.nmfs.noaa.gov/pr/permits/incidental/military.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of the USAF's application may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to,

migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

Summary of Request

On August 10, 2018, NMFS received an adequate and complete application from the USAF requesting a letter of authorization (LOA) for the take of six species of marine mammals (all pinnipeds), by Level B harassment only, incidental to launching space launch vehicles, intercontinental ballistic and small missiles, and aircraft and helicopter operations at VAFB. The USAF is requesting a 5-year LOA for these activities. These activities may result in the take of marine mammals as a result of noise or visual disturbance.

Description of the Specified Activity

VAFB supports launch activities for the USAF, Department of Defense, National Aeronautics and Space Administration, and commercial entities. VAFB is the primary launch facility on the West Coast of the United States for placing commercial, government and military satellites into polar orbit on unmanned launch vehicles, and for the testing and evaluation of intercontinental ballistic missiles (ICBMs) and sub-orbital target and interceptor missiles. In addition to space vehicle and missile launch activities at VAFB, occasional helicopter and aircraft operations involve search-and-rescue, delivery of space vehicle components, launch mission support, security reconnaissance, and training flights.

There are currently six active facilities at VAFB used to launch satellites into polar orbit. These facilities support launch programs for the Atlas V, Delta II, Delta IV, Falcon 9 and Minotaur rockets. A variety of small missiles are also launched from various facilities at VAFB, including Minuteman III, an ICBM which is launched from underground silos. In addition, several types of interceptor and target vehicles are launched for the Missile Defense Agency, which develops various systems and elements, including the Ballistic Missile Defense System.

The USAF anticipates that no more than 15 missile and 50 rocket launches would occur in any year, with total launch activities not exceeding 75 missile and 250 rocket launches over five years. All launch operations would occur at VAFB, potentially resulting in impacts to marine mammals at VAFB (as a result of launch noise and visual stimuli) and at the Northern Channel Islands (as a result of noise from sonic booms). A full description of the activities to be conducted by the USAF at VAFB, including descriptions of the space vehicles and missiles proposed for use, is provided in the USAF's application.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the USAF's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the USAF, if appropriate.

Dated: September 7, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–19896 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG460

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) Highly Migratory Species Management Team (HMSMT) will hold a webinar, which is open to the public.

DATES: The webinar meeting will be held on Wednesday, October 3, 2018, from 1:30 p.m. until 4:30 p.m.

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 (1) join the meeting by visiting this link *https://www.gotomeeting.com/webinar,* (2) enter the Webinar ID: 193–653–531, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number 1–213–929–4232 (not a toll-free number), (2) enter the attendee phone audio access code 380–095–597, and (3) enter the provided audio PIN after joining the webinar. You must enter this PIN for audio access. 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 the *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. A public listening station will also be available at the Pacific Council office.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of the HMSMT webinar is to (1) prepare for the Council's November 1–8, 2018 meeting, (2) discuss analytical tasks to support the Council finalizing a range of alternatives for authorizing a fishery using deep-set buoy gear, and (3) discuss other topics related to the management of HMS fisheries.

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

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, (503) 820–2411, at least 10 business days prior to the meeting date.

Dated: September 10, 2018.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–19947 Filed 9–12–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Global Markets Advisory Committee renewal.

SUMMARY: The Commodity Futures Trading Commission (Commission) is publishing this notice to announce the renewal of the Global Markets Advisory Committee (GMAC). The Commission has determined that the renewal of the GMAC is necessary and in the public's interest, and the Commission has consulted with the General Services Administration's Committee Management Secretariat regarding the GMAC's renewal.

FOR FURTHER INFORMATION CONTACT: Andrea Musalem, GMAC Designated Federal Officer, at 202–418–5167 or *amusalem@cftc.gov.*

SUPPLEMENTARY INFORMATION: The GMAC's objectives and scope of activities are to conduct public meetings, and to submit reports and recommendations on matters of public concern to the exchanges, firms, market users, and the Commission regarding the regulatory challenges of a global marketplace, which reflect the increasing interconnectedness of markets and the multinational nature of business. The GMAC will help the Commission determine how it can avoid unnecessary regulatory or operational impediments to global business while still preserving core protections for customers and other market participants. The GMAC will also make recommendations for appropriate international standards for regulating futures, swaps, options, and derivatives markets, as well as intermediaries. Additionally, the GMAC will assist the Commission in assessing the impact on U.S. markets and firms of the Commission's international efforts and the initiatives of foreign regulators and market authorities. The GMAC will also assist with identifying methods to improve both domestic and international regulatory structures while continuing to allow U.S. markets and firms to remain competitive in the global market.

The GMAC will operate for two years from the date of renewal unless the Commission directs that the GMAC terminate on an earlier date. A copy of the GMAC renewal charter has been filed with the Commission; the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the Library of Congress; and the General Services Administration's Committee Management Secretariat. A copy of the renewal charter will be posted on the Commission's website at *http://www.cftc.gov.*

Dated: September 10, 2018.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–19908 Filed 9–12–18; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision for the KC–46A Fourth Main Operating Base Beddown

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of availability of a Record of Decision.

SUMMARY: The United States Air Force signed the Record of Decision for the KC–46A Fourth Main Operating Base (MOB 4) on August 29, 2018.

ADDRESSES: For further information contact: Mr. Mike Ackerman, AFCEC/CZN, 2261 Hughes Ave, Ste 155, JBSA Lackland, TX 78236, ph: (210) 925–2741.

SUPPLEMENTARY INFORMATION: The Record of Decision reflects the Air Force decision to beddown 24 KC–46A Primary Aeropsace Vehichles Aurthorized (PAA) at Joint Base McGuire-Dix-Lakehurst, New Jersey and 24 KC–46A PAA at Travis Air Force Base, California.

The decision was based on matters discussed in the KC–46A Fourth Main Operating Base Beddown Final Environmental Impact Statement, contributions from the public and regulatory agencies, and other relevant factors. The Final Environmental Impact Statement was made available to the public on June 22, 2018 through a Notice of Availability published in the **Federal Register** (Volume 83, Number 121, page 29115) with a 30-day wait period that ended on July 23, 2018.

Authority: This Notice of Availability is published pursuant to the regulations (40 CFR part 1506.6) implementing the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process 32 CFR parts 989.21(b) and 989.24(b)(7)).

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2018–19933 Filed 9–12–18; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0065]

Proposed Collection; Comment Request

AGENCY: Under Secretary of Defense for Acquisition and Sustainment, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency (DLA) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 13, 2018.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer,

Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Logistics Agency, Morale Welfare and Recreation, Child and Youth Program, ATTN: Lauren Langhan, 8725 John J. Kingman Road, Suite 1134, Fort Belvoir, VA, 22060–6221, or call 571–767–6675.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Logistics Agency Child and Youth Program; DLA Forms 1849, 1849–1, 1849–2, 1849–3, 1849–4, 1855, 1855–1, 1855–1A, 1855–1B, 1855–1C, 1855–1D (Parts I and II), 1855–1E, 1855–1F; OMB Control Number 0704–XXXX.

Needs and Uses: The Department of Defense (DoD) requires the information in the proposed collection in support of Defense Logistics Agency (DLA) Child and Youth Programs (CYPs). This collection includes fourteen (14) DLA forms, some of which are used by all of the collection respondents and some of which are used under specific circumstances. The information collected is used for program planning, management, and health and safety purposes. More specifically, the information in the proposed collection allows CYP staff to provide safe, developmentally appropriate day care services and to ensure proper, effective response in the event of an emergency. Respondents include patrons enrolling their children in a CYP; these patrons may include active duty military, DoD civilian employees, or DoD contractors.

Affected Public: Individuals or households.

Annual Burden Hours: 964.4.

Number of Respondents: 860.

Responses Per Respondent: 14.017.

Annual Responses: 12,055.

Average Burden Per Response: .08 hours.

Frequency: On occasion.

Dated: September 7, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2018–19892 Filed 9–12–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Policy and Procedural Guidance for Processing Requests To Alter US Army Corps of Engineers Civil Works Projects

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The US Army Corps of Engineers (USACE) has issued Engineer Circular (EC) 1165–2–220, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to Section 408. This agency policy document provides the policies and procedures related to how USACE will process certain requests by others to alter a USACE Civil Works project under Section 14 of the Rivers and Harbors Act of 1899 (more commonly referred to as Section 408). The draft version of this EC was made available for public comment from February 5, 2018 to April 6, 2018. USACE reviewed and considered all comments received, and revised the EC to reflect those comments to the maximum extent possible. The final EC is available on the USACE publications website (*http://www.publications.usace.army.mil/*) and via hyperlink on the USACE Section 408 website (*http://www.usace.army.mil/Missions/Civil-Works/Section408/*). The EC is effective beginning September 10, 2018.

DATES: The EC is applicable beginning September 10, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Tammy Conforti at 202–761–4649, email *HQ-Section408@usace.army.mil,* or visit *http://www.usace.army.mil/Missions/Civil-Works/Section408/.*

SUPPLEMENTARY INFORMATION: Section 14 of the Rivers and Harbors Act of 1899, as amended, and codified in 33 U.S.C. 408 (Section 408) provides that the Secretary of the Army may, upon the recommendation of the Chief of Engineers, grant permission to other entities for the permanent or temporary alteration or use of any USACE Civil Works project. This requires a determination by the Secretary that the requested alteration will not be injurious to the public interest and will not impair the usefulness of the USACE project.

The draft version of this EC was made available for public comment from February 5, 2018 to April 6, 2018 (see 83 FR 5075). The comments received on the draft EC are posted at *www.regulations.gov* in docket number COE–2018–0003.

USACE published Engineer Circular (EC) 1165–2–220, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 U.S.C. 408, to update processes related to how USACE will review certain requests by others to alter a USACE Civil Works project. For example, other entities may want to alter a Civil Works project to increase recreational opportunities; improve flood risk management; or construct a road, transmission line, or pipeline. The purpose of the Section 408 review is to ensure that the Congressionally-authorized purpose and benefits of the Civil Works project are protected and maintained (*e.g.,* flood risk management, navigation, coastal storm damage reduction) and to ensure that what is being proposed is not injurious to the public interest. An effective and efficient review of proposed alterations to Civil Works projects protects taxpayer investments in water resources infrastructure, while ensuring compatibility with new infrastructure or improvements.

Process improvements include greater delegation of decisions; introduction of a multi-phased review option for incremental reviews; timelines for written notifications; and procedures to better align and integrate Section 408 with certain reviews conducted by USACE's Regulatory Program. Note, the Section 408 database described in the EC is undergoing testing and will not be available for use by USACE until late calendar year 2018.

EC 1165–2–220 expires two years from issuance, which provides USACE time consider implementation experience to identify any necessary clarifications or changes. After two years, EC 1165–2–220 will either be revised, rescinded, or converted to an Engineer Regulation, which does not expire. Feedback on implementation of EC 1165–2–220 may be sent to *HQ-Section408@usace.army.mil.*

Dated: September 5, 2018.

James C. Dalton,

Director of Civil Works.

[FR Doc. 2018–19926 Filed 9–12–18; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2018–0605; FRL–9983–09]

Request for Nominations of Experts To Consider for *ad hoc* Participation and Possible Membership on the Toxic Substances Control Act (TSCA), Science Advisory Committee on Chemicals (SACC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA requests public nominations of scientific experts to be considered for *ad hoc* participation and possible membership on the Toxic Substances Control Act (TSCA) Science Advisory Committee on Chemicals (SACC). All nominees will be considered for *ad hoc* participation in the TSCA SACC's peer reviews of the EPA's risk evaluations for the first 10 chemical substances addressed under the TSCA. In addition, all nominees may be considered for TSCA SACC membership to fulfill short term needs when a vacancy occurs on the chartered Committee.

DATES: *Nominations.* Nominations should be provided to the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** on or before October 29, 2018.

For additional instructions, see Unit I.B. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dr. Todd Peterson, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6428; email address: *peterson.todd@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing and risk evaluations of chemical substances under the Toxic Substances Control Act (TSCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI.* Do not submit CBI information to EPA through regulations.gov or email. If your nomination contains any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your nomination.

2. *Request for nominations to be considered for ad hoc participation and possible membership on the TSCA SACC.* As part of a broader process for developing a pool of candidates, OSCP staff solicits from the public and stakeholder communities nominations of prospective candidates for service as *ad hoc* reviewers and possibly members of TSCA SACC. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates. Individuals may self-nominate. Individuals nominated should have expertise in one or more of the following areas: Women's health; children's health; genetic variability; disproportionately exposed populations; aging; other susceptible populations; biochemistry; chemistry; epidemiology; human health risk assessment; pathology; PBPK modeling; pharmacology; ecological risk assessment; environmental fate; environmental toxicology; occupational, consumer, and general exposure assessment; toxicology; dose response modeling; environmental engineering; biostatistics; computational toxicology; fiber science; inhalation toxicology; volatile organics; and systematic review. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for a TSCA SACC meeting. Nominees should be identified by name, occupation, position, address, email address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before October 29, 2018. The Agency will consider all nominations of prospective candidates for service as *ad hoc* reviewers and possibly members of the TSCA SACC that are received on or before that date. However, final selection of *ad hoc* participants and members is at the discretion of the Agency.

The selection of scientists to serve as *ad hoc* reviewers and members of the TSCA SACC is based on the function of the Committee and the expertise needed to address the Agency's charge to the Committee. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency, except EPA. Other factors considered during the selection process include availability of the prospective candidate to fully participate in the Committee's reviews, absence of any conflicts of interest or appearance of loss of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of loss of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on TSCA SACC. Often, numerous available and qualified candidates are identified for *ad hoc* participation and membership. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the Committee.

TSCA SACC members are subject to the provisions of 5 CFR part 2634—Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture, as supplemented by EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on TSCA SACC will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. EPA will evaluate the candidates' financial disclosure forms to assess whether there are financial conflicts of interest, appearance of a loss of impartiality, or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on TSCA SACC. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of *ad hoc* reviewers and TSCA SACC members participating at each meeting will be posted on the TSCA SACC website at *http://www.epa.gov/tsca-peer-review* or may be obtained from the OPPT Docket at *http://www.regulations.gov.*

II. Background

A. Purpose of TSCA SACC

The Science Advisory Committee on Chemicals (SACC) was established by EPA in 2016 under the authority of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Public Law 114–

182, 140 Stat. 448 (2016), and operates in accordance with the Federal Advisory Committee Act (FACA) of 1972. The SACC supports activities under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* the Pollution Prevention Act (PPA), 42 U.S.C. 13101 *et seq.,* and other applicable statutes. The SACC provides independent scientific advice and recommendations to the EPA on the scientific and technical aspects of risk assessments, methodologies, and pollution prevention measures and approaches for chemicals regulated under TSCA.

The SACC is comprised of experts in: Toxicology; environmental risk assessment; exposure assessment; and related sciences (*e.g.,* synthetic biology, pharmacology, biotechnology, nanotechnology, biochemistry, biostatistics, PBPK modeling, computational toxicology, epidemiology, environmental fate, and environmental engineering and sustainability). The SACC currently consists of 26 members. When needed, the committee will be assisted in their reviews by *ad hoc* reviewers with specific expertise in the topics under consideration.

At this time, EPA is seeking nominations to create a pool of experts who can be available to the SACC to assist in reviews conducted by the Committee. EPA anticipates selecting experts from this pool, as needed, to assist the SACC in their review of EPA's risk evaluations for the first 10 chemical substances addressed under the TSCA: Pigment Violet 29; 1,4-Dioxane, Asbestos; Cyclic Aliphatic Bromide Cluster (HBCD); 1-Bromopropane; Perchloroethylene; Trichloroethylene; Carbon Tetrachloride; Methylene Chloride; and *n*-Methylpyrolidone.

In addition, EPA anticipates selecting from the pool of experts, as needed, to appoint SACC members to fulfill short term needs when a vacancy occurs on the Committee due to resignation or reasons other than expiration of a term.

Authority: 15 U.S.C. 2625 *et seq.;* 5 U.S.C. Appendix 2 *et seq.*

Dated: September 4, 2018.

Stanley Barone, Jr.,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 2018–19952 Filed 9–12–18; 8:45 am]

BILLING CODE 6560–50–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 October 1, 2018.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Davron Santa Fe Properties, Ltd., Wolfforth, Texas, RKB Family Investments LR, LP, DF Family Investments LR, LP, Ronnie K. Bilbo, and David L. Foster, all of Lubbock, Texas;* as a group acting in concert, to acquire voting shares of Peoples Bancorp, Inc., and indirectly acquire shares of Peoples Bank, both of Lubbock, Texas.

Board of Governors of the Federal Reserve System, September 10, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–19943 Filed 9–12–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Busey Corporation, Champaign, Illinois;* to acquire voting shares of The Banc Ed Corp., Edwardsville, Illinois, and thereby indirectly acquire The Bank of Edwardsville, Edwardsville, Illinois.

Board of Governors of the Federal Reserve System, September 10, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–19942 Filed 9–12–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0212; Docket No. CDC–2018–0084]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a

proposed information collection project titled *National Hospital Care Survey,* an electronic data collection that describes hospital care utilization in the U.S.

DATES: CDC must receive written comments on or before November 13, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0084 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) *or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

The National Hospital Care Survey (NHCS) (OMB Control Number 0920–0212; Exp. Date 01/31/2019)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. This three-year clearance request for NHCS includes the collection of all inpatient and ambulatory Uniform Bill-04 (UB–04) claims data or electronic health record (EHR) data as well as the collection of hospital-level information via a questionnaire from a sample of 598 hospitals.

The NHCS collects data on patient care in hospital-based settings to describe patterns of health care delivery and utilization in the United States. NHCS hospital-based settings include inpatient, emergency (EDs), and outpatient departments (OPDs). The survey will provide hospital utilization statistics for the Nation. In addition, the NHCS will also be able to monitor national trends in substance use-related ED visits including opioid visits.

NHCS consists of a nationally representative sample of 598 hospitals. These hospitals are currently being recruited, and participating hospitals are submitting all of their inpatient and ambulatory care patient data in the form of electronic UB–04 administrative claims or EHR data. Currently, hospital-level data are collected through a questionnaire administered via a web portal.

This revision seeks approval to continue voluntary recruitment of hospitals in the sample for the NHCS; continue the collection of hospital-level data through an initial intake questionnaire and an Annual Hospital Interview for all sampled hospitals; continue the collection of electronic data on inpatient discharges as well as emergency department (ED) and outpatient department (OPD) visits through the collection of EHR data, UB–04 claims, or a state file; continue collection of substance-involved ED visit data through the ED component; eliminate medical record abstraction of a sample of ED and OPD visits as part of the design of the survey; and postpone frame development for free standing ambulatory care facilities.

NHCS collects data items at the hospital, patient, inpatient discharge, and visit levels. Hospital-level data items include ownership, number of staffed beds, hospital service type, and EHR adoption. Patient-level data items are collected from electronic data and include basic demographic information, personal identifiers, name, address, social security number (if available), and medical record number (if available). Discharge-level data are collected through the UB–04 claims or EHR data and include admission and discharge dates, diagnoses, diagnostic services, and surgical and non-surgical procedures. Visit-level data are collected through EHR data and include reason for visit, diagnosis, procedures, medications, substances involved, and patient disposition.

NHCS data have distinct advantages. Through the collection of personal identifiers, NHCS data can be linked to outside datasets such as the National Death Index (OMB No. 0920–0215, Exp. Date 12/31/2019) to calculate post-discharge mortality. Additionally, NHCS offers unique opportunities to study opioid-involved health outcomes, such as repeat hospital encounters for opioid use and opioid-related mortality rates.

NHCS users include, but are not limited to, CDC, Congressional Research Office, Office of the Assistant Secretary for Planning and Evaluation (ASPE), National Institutes of Health, American Health Care Association, Centers for Medicare & Medicaid Services (CMS), SAMHSA, Bureau of the Census, Office of National Drug Control Policy, state and local governments, and nonprofit organizations. Other users of these data include universities, research organizations, many in the private sector, foundations, and a variety of users in the media.

Data collected through NHCS are essential for evaluating the health status of the population, for the planning of programs and policy to improve health care delivery systems of the Nation, for studying morbidity trends, and for

research activities in the health field. Historically, data have been used extensively in the development and monitoring of goals for the Year 2000, 2010, and 2020 Healthy People Objectives.

There is no cost to respondents other than their time to participate. The total annualized burden is 7,080 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Hospital Director of Health Information Management (DHIM) or Director of Health Information Technology (DHIT).	Initial Hospital Intake Questionnaire	150	1	1	150
Hospital Chief Executive Officer (CEO)/Chief Financial Officer (CFO).	Recruitment Survey Presentation	150	1	1	150
Hospital DHIM or DHIT	Prepare and transmit UB–04 or State File for Inpatient and Ambulatory.	399	12	1	4,788
Hospital DHIM or DHIT	Prepare and transmit EHR for Inpatient and Ambulatory.	199	4	1	796
Hospital CEO/CFO	Annual Hospital Interview	598	1	2	1,196
Total	.....	.....	.....	.....	7,080

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–19901 Filed 9–12–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0666]

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 National Healthcare Safety Network 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 May 11, 2018 to obtain comments from the public and affected agencies. CDC received one comment 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

National Healthcare Safety Network (0920–0666, Expiration Date 1/31/2021)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NHSN is a public health surveillance system that collects, analyzes, reports, and makes available data for monitoring, measuring, and responding to healthcare associated infections (HAIs), antimicrobial use and resistance, blood transfusion safety events, and the extent to which healthcare facilities adhere to infection prevention practices and antimicrobial stewardship. Specifically, resulting data estimates the magnitude of Healthcare Associated Infections (HAI), monitor HAI trends, and facilitate inter-facility and intra-facility comparisons with risk-adjusted data used for local quality improvement activities. The data will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. The NHSN currently consists of six components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility (LTCF), Outpatient Procedure Component, and Dialysis.

Changes were made to 34 data collection facility surveys with this revision ICR. CDC revised three annual facility surveys for the Patient Safety component for Hospitals, Long-Term Acute Care Facilities, and Inpatient Rehabilitation Facilities. CDC's revisions clarify the reporting requirements for the data collected on fungal testing, facility locations, and laboratory testing locations. Additionally, corresponding response

options for these questions have been revised to include updated testing methods used by facilities to capture current HAI specific data specification requirements for NHSN. New required questions have been added to all Patient Safety component surveys. The new questions are designed to provide data on surveillance processes, policies, and standards that are used by reporting facilities to ensure that when an event is detected, the facility has the appropriate mechanism to conduct complete reporting. The Hospital Annual Survey added new required questions to provide data about neonatal antimicrobial stewardship practices because the focus of stewardship efforts in neonatology differ from the focus in adult and pediatric practice. Questions were removed and replaced on all three Patient Safety surveys to align better with the Core Elements of Hospital Antibiotic Stewardship Programs specified by CDC. The Core Elements defined by CDC are part of broad-based efforts by CDC and its healthcare and public health partners to combat the threat of antibiotic-resistant bacteria. The new Antibiotic Stewardship Program questions will provide additional data about operational features of the programs that hospitals have implemented, which in turn will enable CDC and its healthcare and public health partners to target their efforts to help invigorate and extend antibiotic stewardship.

CDC is introducing a new optional survey form that is designed to be completed by state and local health departments that participate in HAI surveillance and prevention activities. This new form will provide data on legal and regulatory requirements that are pertinent to HAI reporting. CDC plans to include data the health department survey in its annual National and State Healthcare-Associated Infection Progress Report. The report helps identify the progress in HAI surveillance and prevention at the state and national levels. Data about the extent to which state health departments have validated HAI data that healthcare facilities in their jurisdiction report to NHSN and the extent of state and local health department HAI reporting requirements are important data for users of CDC's HAI Progress Report to consider when they are reviewing and interpreting data in the report.

NHSN now includes a ventilator-associated event available for NICU locations, which requires additional denominator reporting, in which CDC has provided an option to accommodate facilities that are reporting requested data by updating the corresponding surveys. The Pediatric Ventilator-Associated Event (PedVAE) was removed from the survey because a single algorithm is used to detect PedVAE events.

NHSN has made updates to the Antimicrobial Use and Resistance (AUR) data collection tools for the purposes of monitoring additional microorganisms and their antimicrobial susceptibility profiles. Use of these updates in AUR surveillance will provide important additional data for clinical and public health responses to mounting antibiotic resistance problems.

The Long-term Care Facility Component (LTCF) will be updating three forms, two of which will include an update for facilities to document the ''CDI treatment start'' variable. Early CDI reporting data from nursing homes has shown exceptionally low event rates for many reporting facilities (*e.g.,* zero events for six or more months). Since current CDI event detection is based on presence of a positive laboratory specimen, variability in the use of diagnostic testing as part of CDI management will have direct impact on the estimate of CDI burden in a facility (*e.g.,* empiric treatment for CDI without confirmatory testing may result in the appearance of low disease burden). In order to determine whether low CDI event rates might be due to empiric CDI treatment practices, a new process measure will be incorporated into the monthly summary data on CDI for LTCFs. This measure, called ''CDI treatment starts,'' will allow providers to capture the number of residents started on antibiotic treatment for CDI that month based on clinical decisions (*i.e.,* even those without a positive CDI test). This process measure should provide data on clinically-treated CDI in order to inform our understanding of CDI management practices and serve as a proxy for CDI burden in nursing homes.

Overall, minor revisions have been made to a total of 34 forms within the package to clarify and/or update surveillance definitions, increase or decrease the number of reporting facilities, and add new forms.

Finally, NHSN has achieved significant burden reduction with this ICR due to a decrease in the number of respondents for the Specialty Care Area (SCA) and Oncology (ONC) facilities reporting to NHSN. NHSN re-evaluated these reporting facilities and determined that approximately 2,000 SCA and ONC facilities are reporting to NHSN compared to the estimated 6,000 that was estimated last year. Additionally, NHSN streamlined many response options, which also attributed to a reduction in the overall burden.

The previously approved NHSN package included 72 individual collection forms; the current revision request includes a total of 73 forms. The reporting burden will decrease by 109,745 hours, for a total of 5,393,725 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Healthcare facility	57.100 NHSN Registration Form	2,000	1	5/60
	57.101 Facility Contact Information	2,000	1	10/60
	57.103 Patient Safety Component—Annual Hospital Survey	6,000	1	75/60
	57.105 Group Contact Information	1,000	1	5/60
	57.106 Patient Safety Monthly Reporting Plan	6,000	12	15/60
	57.108 Primary Bloodstream Infection (BSI)	6,000	44	33/60
	57.111 Pneumonia (PNEU)	1,800	72	30/60
	57.112 Ventilator-Associated Event	6,000	144	28/60
	57.113 Pediatric Ventilator-Associated Event (PedVAE)	100	120	30/60
	57.114 Urinary Tract Infection (UTI)	6,000	40	20/60
	57.115 Custom Event	600	91	35/60
	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	6,000	12	4

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	2,000	9	302/60
	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	302/60
	57.120 Surgical Site Infection (SSI)	6,000	36	35/60
	57.121 Denominator for Procedure	6,000	540	10/60
	57.122 HAI Progress Report State Health Department Survey.	55	1	45/60
	57.123 Antimicrobial Use and Resistance (AUR)-Microbiology Data Electronic Upload Specification Tables.	1,000	12	5/60
	57.124 Antimicrobial Use and Resistance (AUR)-Pharmacy Data Electronic Upload Specification Tables.	2,000	12	5/60
	57.125 Central Line Insertion Practices Adherence Monitoring.	100	100	25/60
	57.126 MDRO or CDI Infection Form	6,000	72	30/60
	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60
	57.128 Laboratory-identified MDRO or CDI Event	6,000	240	20/60
	57.129 Adult Sepsis	50	250	25/60
	57.137 Long-Term Care Facility Component—Annual Facility Survey.	2,600	1	2
	57.138 Laboratory-identified MDRO or CDI Event for LTCF	2,600	12	20/60
	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	20/60
	57.140 Urinary Tract Infection (UTI) for LTCF	2,600	14	35/60
	57.141 Monthly Reporting Plan for LTCF	2,600	12	5/60
	57.142 Denominators for LTCF Locations	2,600	12	250/60
	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	5/60
	57.150 LTAC Annual Survey	400	1	70/60
	57.151 Rehab Annual Survey	1,000	1	70/60
	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8
	57.203 Healthcare Personnel Safety Monthly Reporting Plan	19,500	1	5/60
	57.204 Healthcare Worker Demographic Data	50	200	20/60
	57.205 Exposure to Blood/Body Fluids	50	50	1
	57.206 Healthcare Worker Prophylaxis/Treatment	50	30	15/60
	57.207 Follow-Up Laboratory Testing	50	50	15/60
	57.210 Healthcare Worker Prophylaxis/Treatment-Influenza	50	50	10/60
	57.300 Hemovigilance Module Annual Survey	500	1	85/60
	57.301 Hemovigilance Module Monthly Reporting Plan	500	12	1/60
	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	70/60
	57.305 Hemovigilance Incident	500	10	10/60
	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	200	1	35/60
	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	20/60
	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	20/60
	57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	20/60
	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	20/60
	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	20/60
	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	20/60
	57.313 Hemovigilance Adverse Reaction—Infection	500	1	20/60
	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	20/60
	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	20/60
	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	20/60
	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	20/60
	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	20/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	20/60
	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	20/60
	57.400 Outpatient Procedure Component—Annual Facility Survey.	5,000	1	10/60
	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	20/60
	57.402 Outpatient Procedure Component Same Day Outcome Measures.	1,200	25	40/60
	57.403 Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures.	1,200	12	40/60
	57.404 Outpatient Procedure Component—SSI Denominator.	5,000	540	10/60
	57.405 Outpatient Procedure Component—Surgical Site (SSI) Event.	5,000	36	35/60
	57.500 Outpatient Dialysis Center Practices Survey	7,000	1	127/60
	57.501 Dialysis Monthly Reporting Plan	7,000	12	5/60
	57.502 Dialysis Event	7,000	60	25/60
	57.503 Denominator for Outpatient Dialysis	7,000	12	10/60
	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	2,000	12	85/60
	57.505 Dialysis Patient Influenza Vaccination	325	75	10/60
	57.506 Dialysis Patient Influenza Vaccination Denominator	325	5	10/60
	57.507 Home Dialysis Center Practices Survey	350	1	30/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–19902 Filed 9–12–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0294]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Contact Substance Notification Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection associated with the Food Contact Substance Notification Program.

DATES: Submit either electronic or written comments on the collection of information by November 13, 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 November 13, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 13, 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–2012–N–0294 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food

Contact Substance Notification Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Contact Substance Notification Program—21 CFR 170.101, 170.106, and 171.1

OMB Control Number 0910–0495—Extension

This information collection supports FDA regulations regarding Food Contact Substance Notification, as well as associated guidance and accompanying forms. Section 409(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348(h)) establishes a premarket notification process for food contact substances. Section 409(h)(6) of the FD&C Act defines a ''food contact substance'' as ''any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'' Section 409(h)(3) of the FD&C Act requires that the notification process be used for authorizing the marketing of food contact substances except when: (1) We determine that the submission and premarket review of a food additive petition (FAP) under section 409(b) of the FD&C Act is necessary to provide adequate assurance of safety or (2) we and the manufacturer or supplier agree that an FAP should be submitted. Section 409(h)(1) of the FD&C Act requires that a notification include: (1) Information on the identity and the intended use of the food contact substance and (2) the basis for the manufacturer's or supplier's determination that the food contact substance is safe under the intended conditions of use.

Sections 170.101 and 170.106 of FDA's regulations (21 CFR 170.101 and 170.106) specify the information that a notification must contain and require that: (1) A food contact substance notification (FCN) includes Form FDA 3480 and (2) a notification for a food contact substance formulation includes Form FDA 3479. These forms serve to summarize pertinent information in the notification. The forms facilitate both preparation and review of notifications because the forms will serve to organize information necessary to support the safety of the use of the food contact substance. The burden of filling out the appropriate form has been included in the burden estimate for the notification.

Currently, interested persons transmit an FCN submission to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition using Form FDA 3480 whether it is submitted in electronic or paper format. We estimate that the amount of time for respondents to complete Form FDA 3480 will continue to be the same.

In addition to its required use with FCNs, Form FDA 3480 is recommended to be used to organize information within a Pre-notification Consultation or Master File submitted in support of an FCN according to the items listed on the form. Master Files can be used as repositories for information that can be referenced in multiple submissions to FDA, thus minimizing paperwork burden for food contact substance authorizations. We estimate that the amount of time for respondents to complete the Form FDA 3480 for these types of submissions is 0.5 hours.

FDA recommends using Form FDA 3480A for each submission of additional information (*i.e.,* amendment) to an FCN submission currently under Agency review. Form FDA 3480A helps the respondent organize the submission to focus on the information needed for FDA's safety review.

FDA's guidance documents entitled: (1) ''Preparation of Food Contact Notifications: Administrative,'' (2) ''Preparation of Food Contact Notifications and Food Additive

Petitions for Food Contact Substances: Chemistry Recommendations,'' and (3) ''Preparation of Food Contact Notifications for Food Contact Substances: Toxicology Recommendations'' provide assistance to industry regarding the preparation of an FCN and a petition for a food contact substances (FCSs). FDA has also developed a draft guidance entitled, ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.'' Once finalized, the guidance will provide our current thinking on how to prepare an FCN for FDA review and evaluation of the safety of FCSs used in contact with infant formula and/or human milk. These guidances are available at *https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/IngredientsAdditivesGRASPackaging/default.htm.*

Section 171.1 of FDA's regulations (21 CFR 171.1) specifies the information that a petitioner must submit in order to: (1) Establish that the proposed use of an indirect food additive is safe and (2) secure the publication of an indirect food additive regulation in parts 175 through 178 (21 CFR parts 175 through 178). Parts 175 through 178 describe the conditions under which the additive may be safely used.

In addition, FDA's guidance entitled ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations,'' provides assistance to manufacturers of food packaging in evaluating processes for producing packaging from post-consumer recycled plastic. The recommendations in the guidance address the process by which manufacturers certify to us that their plastic products are safe for food contact.

Description of Respondents: The respondents to this information collection are manufacturers of food contact substances sold in the United States. Respondents are from the private sector (for-profit businesses).

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
170.106 [2] (Category A)	FDA 3479	10	2	20	2	40
170.101 [3,7] (Category B)	FDA 3480	6	1	6	25	150
170.101 [4,7] (Category C)	FDA 3480	6	2	12	120	1,440
170.101 [5,7] (Category D)	FDA 3480	42	2	84	150	12,600
170.101 [6,7] (Category E)	FDA 3480	38	1	38	150	5,700
Pre-notification Consultation or Master File (concerning a food contact substance).[8]	FDA 3480	190	1	190	*0.5	95
Amendment to an existing notification (170.101), amendment to a Pre-notification Consultation, or amendment to a Master File (concerning a food contact substance).[9]	FDA 3480A	100	1	100	*0.5	50
171.1 Indirect Food Additive Petitions	N/A	1	1	1	10,995	10,995
Use of Recycled Plastics in Food Packaging: Chemistry Considerations.	N/A	10	1	10	25	250
Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.		2	1	2	5	10
Total						31,330

* 30 minutes.

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] Notifications for food contact substance formulations and food contact articles. These notifications require the submission of Form FDA 3479 (''Notification for a Food Contact Substance Formulation'') only.

[3] Duplicate notifications for uses of food contact substances.

[4] Notifications for uses that are the subject of exemptions under 21 CFR 170.39 and very simple food additive petitions.

[5] Notifications for uses that are the subject of moderately complex food additive petitions.

[6] Notifications for uses that are the subject of very complex food additive petitions.

[7] These notifications require the submission of Form FDA 3480.

[8] These notifications recommend the submission of Form FDA 3480.

[9] These notifications recommend the submission of Form FDA 3480A.

The estimates are based on our current experience with the Food Contact Substance Notification Program and informal communication with industry. Our estimated burden for the information collection reflects an overall increase of 10 hours and a corresponding increase of 2 responses from the currently approved burden. We attribute this adjustment to reviewing and submitting FCNs consistent to the draft guidance entitled, ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk.''

Beginning in row 1, we estimate 10 respondents will submit 2 notifications annually for food contact substance formulations (Form FDA 3479), for a total of 20 responses. We calculate a reporting burden of 2 hours per response, for a total of 40 hours. In row 2 we estimate six respondents. We believe the hourly burden for preparing these notifications will primarily consist of the manufacturer or supplier completing Form FDA 3480, verifying that a previous notification is effective and preparing necessary documentation. We estimate one submission for each respondent, for a total of six responses. We calculate a reporting burden of 25 hours per response, for a total of 150 hours.

In rows 3, 4, and 5, we identify three tiers of FCNs that reflect different levels of burden applicable to the respective information collection items (denoted as Categories C, D, and E). We estimate 6 respondents will submit 2 Category C submissions annually, for a total of 12

responses. We calculate a reporting burden of 120 hours per response, for a total burden of 1,440 hours. We estimate 42 respondents will submit 2 Category D submissions annually, for a total of 84 responses. We calculate a reporting burden of 150 hours per response, for a total burden of 12,600 hours. We estimate 38 respondents will submit 1 Category E submission annually, for a total of 38 responses. We calculate a reporting burden of 150 hours per response, for a total burden of 5,700 hours.

In row 6, we estimate 190 respondents will submit information to a pre-notification consultation or a master file in support of FCN submission using Form FDA 3480. We calculate a reporting burden of 0.5 hours per response, for a total burden of 95 hours. In row 7 we estimate 100 respondents will submit an amendment (Form FDA 3480A) to a substantive or non-substantive request of additional information to an incomplete FCN submission, an amendment to a pre-notification consultation, or an amendment to a master file in support of an FCN. We calculate a reporting burden of 0.5 hours per response, for a total burden of 50 hours.

In row 8, we estimate one respondent will submit one indirect food additive petition under § 171.1, for a total of one response. We calculate a reporting burden of 10,995 hours per response, for a total burden of 10,995 hours.

In row 9, we estimate 10 respondents will utilize the recommendations in the guidance document entitled, ''Use of Recycled Plastics in Food Packaging: Chemistry Considerations,'' to develop the additional information for one such submission annually, for a total of 10 responses. We calculate a reporting burden of 25 hours per response, for a total burden of 250 hours.

Finally, in row 10, we estimate 2 respondents will utilize the recommendations in the draft guidance, once finalized, entitled, ''Preparation of Food Contact Notifications for Food Contact Substances in Contact with Infant Formula and/or Human Milk,'' to develop the additional information for one such submission annually, for a total of 2 responses. We calculate a reporting burden of 5 hours per response, for a total burden of 10 hours.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19898 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1857]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 15, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0789. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Food for Animals—21 CFR Part 507

OMB Control Number 0910–0789—Extension

The information collection supports FDA regulations. As amended by the FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), the Federal Food, Drug, and Cosmetic Act (FD&C Act) enables the Agency to better protect the public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role industry plays in ensuring the safety of the food supply, including the adoption of modern systems of preventive controls in food production. Specifically, section 418 (21 U.S.C. 350g) of the FD&C Act sets forth requirements for hazard analysis and risk-based preventive controls for facilities that produce food for animals. To implement these provisions, regulations were codified under 21 CFR part 507—*Current Good Manufacturing Practice, Hazard Analysis, And Risk-Based Preventive Controls For Food For Animals.* The regulations establish requirements for a written food safety plan; hazard analysis preventive controls; monitoring; corrective actions and corrections; verification; supply-chain program; recall plan; and associated records and became effective November 16, 2015. Currently, we continue to evaluate burden associated with the information collection requirements however, for purposes of extending the information collection we retain the currently approved figures as shown in the following tables.

In the **Federal Register** of May 24, 2018 (83 FR 24124), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received three comments, however none pertained to the information collection or underlying regulations.

We estimate our burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
507.7 exemption: submit attestation of preventive controls or compliance with State and local laws (non-federal).	1,120	0.5	560	0.5 (30 minutes)	280

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
507.67, 507.69, and 507.71; submission of an appeal, including submission of a request for an informal hearing.	1	1	1	4	4
507.85(b); requests for reinstatement of exemption	1	1	1	2	2
Total					286

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of record-keepers	Number of records per record-keeper	Total annual records	Average burden per recordkeeping	Total hours
Subpart A—General Provisions					
507.7(e); records attesting that the facility is a "qualified" facility	1,120	0.5	560	0.1 (6 minutes)	56
507.4(d); documentation of animal food safety and hygiene training	7,469	0.75	5,579	0.05 (3 minutes)	279
Subpart C—Hazard Analysis and Risk-Based Preventive Controls					
507.31 through 507.55; food safety plan—including hazard analysis, preventive controls, monitoring, corrective actions, verification, validation reanalysis, modifications, and implementation records.	7,469	519	3,876,411	0.1 (6 minutes)	387,641
Subpart E—Supply-Chain Program					
507.105 through 507.175; written supply-chain program—including records documenting program.	7,469	519	3,876,411	0.1 (6 minutes)	387,641
Subpart F—Requirements Applying to Records					
507.200 through 507.215; general requirements, additional requirements applying to food safety plan, requirements for record retention, use of existing records, and special requirements applicable to written assurance.	7,469	519	3,876,411	0.1 (6 minutes)	387,641
Totals			11,635,372		1,163,258

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
507.27(b); labeling for the animal food product contains the specific information and instructions needed so the food can be safely used for the intended animal species.	330	10	3,300	0.25 (15 minutes)	825
507.7(e)(1); change labels on products with labels	1,526	4	6,104	1	6,104
507.7(e)(2); change address on labeling (sales documents) for qualified facilities.	1,329	1	1,329	1	1,329
507.25(a)(2); animal food, including raw materials, other ingredients, and rework, is accurately identified.	330	312	102,960	0.01 (36 seconds)	1,030
507.28(b); holding and distribution of human food byproducts for use as animal food.	40,798	2	81,596	0.25 (15 minutes)	20,399
Total					29,687

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As previously stated, we retain the currently approved burden estimate for the information collection. These figures are based on our regulatory impact analysis in support of the final rule on Preventive Controls for Food for Animals, which published in the **Federal Register** of September 17, 2015 (80 FR 56170). Using Agency data, we estimated the number of animal food facilities that we believe are subject to the regulations. We base our estimate of the time necessary for the individual reporting, recordkeeping, and third-party disclosure activities on our experience with similar information collections.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19909 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3381]

Science Board to the Food and Drug Administration Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Science Board to the Food and Drug Administration. The Science Board provides advice to the Commissioner of Food and Drugs and other appropriate officials on specific, complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board provides advice to the Agency on keeping pace with technical and scientific developments including in regulatory science, input into the Agency's research agenda, and on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency sponsored intramural and extramural scientific research programs. The meeting will be open to the public.

DATES: The meeting will be held on October 22, 2018, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503, section A), Silver Spring, MD 20993. For those unable to attend in person, the meeting will also be webcast. The link for the webcast is available at *https://collaboration.fda.gov/scienceboard2018/.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Rakesh Raghuwanshi, Office of the Chief Scientist, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3309, Silver Spring, MD 20993, 301–796–4769, *rakesh.raghuwanshi@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The Science Board will hear a response from the Center for Veterinary Medicine (CVM) to the recommendations made by the Science Board's 2017 review of CVM's National Antibiotic Resistance Monitoring System program. The Science Board will also discuss potential hazards and nutritional considerations in the production of food derived from animal cell culture technologies.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 15, 2018. Oral presentations from the public will be scheduled between approximately 3:30 p.m. and 4:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 5, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 9, 2018.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Rakesh Raghuwanshi at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19906 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1984]

Request for Nominations on the Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is requesting that any small business tobacco manufacturing industry organizations interested in participating in the selection of a nonvoting industry representative to serve on the Tobacco Products Scientific Advisory Committee for the Center for Tobacco Products notify FDA in writing. FDA is also requesting nominations for nonvoting industry representatives to be included in a pool of individuals to represent the interests of the small business tobacco manufacturing industry on the Tobacco Products Scientific Advisory Committee. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. This position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any small business tobacco manufacturing industry organization interested in participating in the selection of appropriate nonvoting members to represent industry interests

must send a letter stating that interest to FDA by October 15, 2018, (see sections I and II of this document for further details). Concurrently, nomination materials for prospective candidates should be sent to FDA by October 15, 2018.

ADDRESSES: All statements of interest from small business tobacco manufacturing industry organizations interested in participating in the selection process of nonvoting industry representative nominations should be sent to Caryn Cohen (see **FOR FURTHER INFORMATION CONTACT**). All nominations for nonvoting industry representatives may be submitted electronically by accessing the FDA Advisory Committee Membership Nomination Portal at: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member of an FDA advisory committee can also be obtained by visiting FDA's website at: *https://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Center for Tobacco Products Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373 (choose Option 5), *TPSAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency intends to add a nonvoting industry representative to represent the interests of the small business tobacco manufacturing industry to the following advisory committee:

I. Tobacco Products Scientific Advisory Committee

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities related to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information, and recommendations to the Commissioner.

The Committee includes three nonvoting members who represent industry interests. These members include one representative of the interests of the tobacco manufacturing industry; one representative of the interests of tobacco growers; and one representative of the interests of the small business tobacco manufacturing industry, which may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee.

With this notice, nominations are sought for a pool of individuals, with varying areas of expertise, to represent the interests of the small business tobacco manufacturing industry on a rotating, sequential basis.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for the committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Contact information, a current curriculum vitae, and the name of the committee of interest should be sent to the FDA Advisory Committee Membership Nomination Portal (see **ADDRESSES**) within 30 days of publication of this document (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA seeks to include the views of women, and men, members of all racial and ethnic groups and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19922 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0920]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 15, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0751. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food—21 CFR Part 117

OMB Control Number 0910–0751—Extension

This information collection supports FDA regulations. As amended by the FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), the Federal Food, Drug, and Cosmetic Act (FD&C Act) enables the Agency to better protect the public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role industry plays in ensuring the safety of the food supply, including the adoption of modern systems of preventive controls in food production. Specifically, section 418 of the FD&C Act (21 U.S.C. 350g) sets forth requirements for hazard analysis and risk-based preventive controls for facilities that produce food for human consumption. To implement these provisions, regulations were codified under 21 CFR part 117—Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The regulations establish requirements for a written food safety plan; hazard analysis preventive controls; monitoring; corrective actions and corrections; verification; supply-chain program; recall plan; and associated records, and became effective November 16, 2015. Currently, we continue to evaluate burden associated with the information collection requirements; however, for purposes of extending the information collection, we retain the currently approved figures as shown in the tables below.

In the **Federal Register** of June 1, 2018 (83 FR 25466), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received stating that our estimate of burden associated with creating a food safety plan was too low and suggested a much higher figure. We appreciate this comment. However, because the annual burden is based on an industry average and because we continue to evaluate this relatively new collection, we are not adjusting our current estimate. At the same time, we continue to invite comment so that we might better refine our estimates for all elements of the collection.

Our estimate of the burden for the information collection is as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
117.201(e); qualified facility	37,134	0.5	18,567	0.5 (30 minutes)	9,284

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
117.126(c) and 117.170(d); food safety plan and reanalysis	46,685	1	46,685	110	5,135,350
117.136; assurance records	16,285	1	16,285	0.25 (15 minutes)	4,071
117.145(c); monitoring records	8,143	730	5,944,390	0.05 (3 minutes)	297,220
117.150(d); corrective actions and corrections records	16,285	2	32,570	1	32,570
117.155(b); verification records	8,143	244	1,986,892	0.05 (3 minutes)	99,345
117.160; validation records	3,677	6	22,062	0.25 (15 minutes)	5,515
117.475(c)(7)–(9); supplier records	16,285	10	162,850	4	651,400
117.180(d); training records for preventive controls qualified individual	46,685	1	46,685	0.25 (15 minutes)	11,671
Total					6,237,142

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
117.201(e); disclosure of food manufacturing facility address	37,134	1	37,134	0.25 (15 minutes)	9,284

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As stated previously, we retain the currently approved burden for the information collection. These figures are based on our regulatory impact analysis in support of the final rule on preventive controls for human food, which published in the **Federal Register** of September 17, 2015 (80 FR 55908). Using Agency data, we estimated the number of food facilities that we believe are subject to the regulations. We base our estimate of the time necessary for the individual reporting, recordkeeping, and third-party disclosure activities on our experience with similar information collections.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19911 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3263]

Request for Nominations for Voting Members on the Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Tobacco Products Scientific Advisory Committee, Office of Science, Center for Tobacco Products.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before November 13, 2018 will be given first consideration for membership on the Tobacco Products Scientific Advisory Committee. Nominations received after November 13, 2018 will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically by logging into the FDA Advisory Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002.

FOR FURTHER INFORMATION CONTACT: *Regarding all nomination questions for membership, the primary contact is:* Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373 (choose option 5), email: *TPSAC@fda.hhs.gov.*

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's website at: *https://www.fda.gov/AdvisoryCommittees/default.htm.*

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Tobacco Products Scientific Advisory Committee.

I. General Description of the Committee Duties

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities related to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information, and recommendations to the Commissioner.

II. Criteria for Voting Members

The Committee consists of 12 members including the Chair. Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products. Almost all non-Federal members of this committee serve as Special Government Employees. The Committee includes nine technically qualified voting members, selected by the Commissioner or designee. The nine voting members include seven members who are physicians, dentists, scientists, or healthcare professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty. The nine voting members also include one member who is an officer or employee of a State or local government or of the Federal Government, and one member who is a representative of the general public. Almost all non-Federal members of this committee serve as Special Government Employees. Members will be invited to serve for terms of up to 4 years.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete résumé or curriculum vitae for each nominee and a signed copy of the Acknowledgement and Consent form available at the FDA Advisory Nomination Portal (see **ADDRESSES**). Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19921 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1588]

Agency Information Collection Activities; Proposed Collection; Comment Request; Exemptions From Substantial Equivalence Requirements for Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on exemptions from substantial equivalence requirements for tobacco products.

DATES: Submit either electronic or written comments on the collection of information by November 13, 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 November 13, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of November 13, 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–2013–N–1588 for ''Exemptions From Substantial Equivalence Requirements for Tobacco Products.'' 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: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Exemptions From Substantial Equivalence Requirements for Tobacco Products

OMB Control Number 0910–0684—Extension

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding a chapter granting FDA important authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

The FD&C Act, as amended by the Tobacco Control Act, requires that before a new tobacco product may be introduced or delivered for introduction into interstate commerce, the new tobacco product must undergo premarket review by FDA. FDA must issue an order authorizing the commercial distribution of the new tobacco product or find the product exempt from the requirements of substantial equivalence under section 910(a)(2)(A) of the FD&C Act, before the product may be introduced into commercial distribution (section 910 of the FD&C Act (21 U.S.C. 387j)).

The Tobacco Control Act also gave FDA the authority to issue a regulation deeming all other products that meet the statutory definition of a tobacco product to be subject to Chapter IX of the FD&C Act (section 901(b) (21 U.S.C. 387a(b)) of the FD&C Act). On May 10, 2016, FDA issued that rule, extending FDA's tobacco product authority to all products that meet the definition of tobacco product in the law (except for accessories of newly regulated tobacco products), including electronic nicotine delivery systems, cigars, hookah, pipe

tobacco, nicotine gels, dissolvables that were not already subject to the FD&C Act, and other tobacco products that may be developed in the future (81 FR 28974 at 28976, May 10, 2016) (''the final deeming rule'')).

FDA has established a pathway for manufacturers to request exemptions from the substantial equivalence requirements of the FD&C Act in § 1107.1 (21 CFR 1107.1) of the Agency's regulations. As described in § 1107.1(a), FDA may exempt tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, from the requirement of demonstrating substantial equivalence if the Agency determines that: (1) The modification would be a minor modification of a tobacco product that can be sold under the FD&C Act; (2) a report demonstrating substantial equivalence is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for the protection of public health; and (3) an exemption is otherwise appropriate.

Section 1107.1(b) states that a request for exemption under section 905(j)(3) of the FD&C Act may be made only by the manufacturer of a legally marketed tobacco product for a minor modification to that tobacco product and that the manufacturer must submit the request and all information supporting it to FDA. The request must be made in an electronic format that FDA can process, review, and archive (or a written request must be made by the manufacturer explaining in detail why the manufacturer cannot submit the request in an electronic format and requesting an alternative means of submission to the electronic format).

An exemption request must contain: (1) The manufacturer's address and contact information; (2) identification of the tobacco product(s); (3) a detailed explanation of the purpose for the modification; (4) a detailed description of the modification, including a statement as to whether the modification involves adding or deleting a tobacco additive, or increasing or decreasing the quantity of the existing tobacco additive; (5) a detailed explanation of why the modification is a minor modification of a tobacco product that can be sold under the FD&C Act; (6) a detailed explanation of why a report under section 905(j)(1) of the FD&C Act intended to demonstrate substantial equivalence is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; (7) a certification (*i.e.,* a signed statement by a responsible official of the company) summarizing the supporting evidence and providing the rationale for the official's determination that the modification does not increase the tobacco product's appeal to or use by minors, toxicity, addictiveness, or abuse liability; (8) other information justifying an exemption; and (9) an environmental assessment (EA) under part 25 (21 CFR part 25) prepared in accordance with the requirements of § 25.40.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) states national environmental objectives and imposes upon each Federal Agency the duty to consider the environmental effects of its actions. Section 102(2)(C) of NEPA requires the preparation of an environmental impact statement for every major Federal action that will significantly affect the quality of the human environment.

The FDA NEPA regulations are contained in part 25. All applications for exemption from substantial equivalence require the submission of an EA. An EA provides information that is used to determine whether an FDA action could result in a significant environmental impact. Section 25.40(a) and (c) specifies the content requirements for EAs for nonexcluded actions.

The information required by § 1107.1(b) is submitted to FDA so FDA can determine whether an exemption from substantial equivalence to the product is appropriate for the protection of the public health. Section 1107.1(c) states that FDA will review the information submitted and determine whether to grant or deny an exemption based on whether the criteria in section 905(j)(3) of the FD&C Act are met. FDA may request additional information if necessary to make a determination and may consider the exemption request withdrawn if the information is not provided within the requested timeframe.

Section 905(j)(1)(A)(ii) of the FD&C Act states that if an exemption has been requested and granted, a report must be submitted to FDA that demonstrates that the tobacco product is modified within the meaning of section 905(j)(3), the modifications are to a product that is commercially marketed and in compliance with the requirements of the FD&C Act, and all of the modifications are covered by exemptions granted by the Secretary of Health and Human Services (the Secretary) under section 905(j)(3).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section and activity	Number of respondents	Number of responses per respondent [2]	Total annual responses	Average burden per response (in hours)	Total hours
§ 1107.1(b) Optional Preparation of Tobacco Product Exemption From Substantial Equivalence Request Including § 25.40 Preparation of an Environmental Assessment					
21 CFR 1107.1(b)—Preparation of tobacco product exemption from substantial equivalence request and 21 CFR 25.40—Preparation of an environmental assessment	812	1	812	24	19,488
Total Hours (§ 1107.1(b))					19,218
§ 1107.1(c) Preparation of Additional Information for Tobacco Product Exemption From Substantial Equivalence Request					
21 CFR 1107.1(c)—Preparation of additional information for tobacco product exemption from substantial equivalence request	244	1	244	3	732

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section and activity	Number of respondents	Number of responses per respondent [2]	Total annual responses	Average burden per response (in hours)	Total hours
Total Hours (§ 1107.1(c))					732
Section 905(j)(1)(A)(ii) of the FD&C Act: If exemption granted, report submitted to demonstrate tobacco product is modified under section 905(j)(3), modifications are to a product that is commercially marketed and compliant, and modifications covered by exemptions granted by Secretary under section 905(j)(3)					
Abbreviated report submitted to demonstrate tobacco product is modified under section 905(j)(3), modifications are to a product that is commercially marketed and compliant, and modifications covered by exemptions granted by Secretary under section 905(j)(3)	1217	1	1217	3	3,651
Total Hours (section 905(j)(1)(A)(ii)) of the FD&C Act					3,651
Total Hours Exemptions From Substantial Equivalence Requirements					23,871

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates that we will receive 812 exemption requests under § 1107.1(b) for 24 hours per response including EA for a total of 19,488 hours. Since an EA is required for each § 1107.1(b) (Optional Preparation of Tobacco Product Exemption From Substantial Equivalence Request), the burden per response for EAs (12 hours) has been combined with the 12 hours for an SE request for a total of 24 hours per response.

FDA further estimates that we will receive 244 submissions requiring additional information in support of the initial exemption request, and it is expected that it will take an average of 3 hours to prepare the additional information for a total of 732 hours.

FDA estimates that 1,217 respondents will prepare 1,217 responses and each response will take approximately 3 hours to prepare, as required by section 905(j)(1)(A)(ii) of the FD&C Act, for a total of 3,651 hours.

This collection of information requires a manufacturer to submit a report at least 90 days prior to making an introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product. Section 905(j)(1)(A)(ii) of the FD&C Act states that if an exemption has been requested and granted, the manufacturer must submit to FDA a report that demonstrates that the tobacco product is modified within the meaning of section 905(j)(3), the modifications are to a product that is commercially marketed and in compliance with the requirements of the FD&C Act, and all the modifications are covered by exemptions granted by the Secretary under section 905(j)(3). FDA estimates the total hours for exemptions from Substantial Equivalence Requirements will be 23,871 hours.

FDA's estimates are based on full analysis of economic impacts and information gathered from other FDA-regulated products. Based on a review of the currently approved information collection, we have made no adjustments to our burden estimate.

Dated: September 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–19913 Filed 9–12–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Forms for Use With Applications to the Maternal and Child Health Bureau Research and Training Grants, OMB No. 0906—New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate below or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than November 13, 2018.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Forms for Use with Applications to the Maternal and Child Health Bureau Research and Training Grants, OMB No. 0906–xxxx—New.

Abstract: HRSA currently utilizes the National Institute of Health's (NIH) Biographical Sketch and Public Health Service (PHS) Inclusion Enrollment forms (0925–0001) for HRSA's SF424 Research & Related application package research grants. In order to update the forms to meet HRSA's needs, HRSA plans to remove the NIH-specific references and obtain its own OMB control number for the collection of this information.

Need and Proposed Use of the Information: HRSA's Maternal and Child Health Bureau (MCHB) plans to modify the Biographical Sketch and the

PHS Inclusion Enrollment Form in slightly different ways in order to meet the needs of its own research and training grant programs. In MCHB's research grant programs, the modified Biographical Sketch form will be used by applicants to summarize the qualifications of each key personnel on their proposed research team, and grant reviewers will use this information to assess the capabilities of the research team to carry out the research project as planned. Monitoring inclusion enrollment is one important component of ensuring demographic diversity (race, ethnicity, and gender) among research study participants in MCHB's research grant portfolio. MCHB's modified PHS Inclusion Enrollment form will be used by applicants to summarize their expected population of research study participants at the time of submission of their proposal, and it will also be used for Enrollment Reporting during the annual Noncompeting Continuation Award.

Likely Respondents: Respondents are applicants to MCHB's research programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Biographical Sketch for MCHB research grant applicants ..	200	5	1,000	2.0	2,000
PHS Inclusion Enrollment form for MCHB research grant applications	200	1	200	0.5	100
Total	400	.....	1,200	.....	2,100

HRSA specifically requests comments on: (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.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018–19903 Filed 9–12–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Support of Competitive Research (SCORE) Award Applications.

Date: November 14, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN.22, Bethesda, MD 20892–6200, 301–594–3663, *sidorova@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19915 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—C; Review of MARC/RISE Applications.

Date: October 29–30, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Ave NW, Washington, DC 20036.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 1 Democracy Plaza, 6701 Democracy Blvd., Room 1068, Bethesda, MD 20892, 301–435–0807, *slicelw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19916 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular and Hematology.

Date: October 9, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, Washington DC Bethesda North, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.

Date: October 11, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Xin Yuan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, 301–827–7245, *yuanx4@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW, Washington, DC 20037.

Contact Person: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5185, Bethesda, MD 20892, *ying-yee.kong@nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Nanotechnology Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Molecular Neuropharmacology and Signaling Study Section.

Date: October 11–12, 2018.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Vanessa S. Boyce, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4016F, MSC 7812, Bethesda, MD 20892, (301) 435–0908, *boycevs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Mechanisms of Neurodysfunction.

Date: October 11, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–3.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19919 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—D, Review of MARC/RISE Applications.

Date: November 8–9, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase, 4300 Military Rd NW, Washington, DC 20015.

Contact Person: Tracy Koretsky, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3An.12F, Bethesda, MD 20892, 301–594–2886, *tracy.koretsky@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19920 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIH Pathway to Independence Award K99/R00 Applications.

Date: November 14, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott-Courtyard Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Manas Chattopadhyay, Ph.D., National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN18, 45 Center Drive, Bethesda, MD 20892, 301–827–5320, *manasc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19912 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–4: NCI Clinical and Translational R21 and Omnibus R03.

Date: October 17, 2018.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Bethesda, MD 20892–9750, 240–276–5122, *hasan.siddiqui@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; R13 Conference Grant Review.

Date: October 17, 2018.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W556, Bethesda, MD 20892–9750, 240–276–6411, *sahab@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2 for Provocative Questions.

Date: October 19, 2018.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Hotel Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W112, Bethesda, MD 20892–9750, 240–276–5864, *jennifer.schiltz@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–19914 Filed 9–12–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0061]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Regional Center Under the Immigrant Investor Pilot Program and Supplement

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 or new 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 November 13, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0061 in the body of the letter, the agency name and Docket ID USCIS–2007–0046. 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–2007–0046;

(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–2007–0056 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 Regional Center under the Immigrant Investor Pilot Program and Supplement.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–924 and Form I–924A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals representing any economic unit, public or private, in the United States that is involved with promoting economic growth. This collection will be used by such individuals to ask USCIS to be designated as a regional center under the Immigrant Investor Program, to request an amendment to a previously approved regional center designation, or to demonstrate continued eligibility for designation as a regional center under the Immigrant Investor Program.

(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 Form I–924 is 420 and the estimated hour burden per response is 51 hours; the estimated total number of respondents for the information collection Form I–924A is 900 and the estimated hour burden per response is 14 hours; the estimated total number of respondents for the information collection Form I–924A compliance review is 900 and the estimated hour burden per response is 24 hours; the estimated total number of respondents for the information collection Form I–924A site visit is 40 and the estimated hour burden per response is 16 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 35,620 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 $1,403,600.

Dated: September 7, 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. 2018–19868 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0080]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: USCIS Case Status Online

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 13, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0080 in the subject box, the agency name and Docket ID USCIS–2005–0033. 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–2005–0033;

(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–2005–0033 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* USCIS Case Status Online.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This system allows individuals or their representatives to request case status of their pending application through USCIS' website.

(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 USCIS Case Status Online is 7,020,000 and the estimated hour burden per response is 0.075 hours (4.5 minutes).

(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 526,500 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 $0, any costs are captured in the form filed by the respondent.

Dated: September 7, 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. 2018–19887 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0049]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Verification of Naturalization

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the

Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 13, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0049 in the body of the letter, the agency name and Docket ID USCIS–2005–0036. 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–2005–0036;

(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–2005–0036 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Verification of Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–25; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, local or Tribal Government. This form will allow U.S. Citizenship and Immigration Services (USCIS) to obtain verification from the courts that a person claiming to be a naturalized citizen has, in fact, been naturalized.

(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 N–25 is 1,000 and the estimated hour burden per response is 0.25 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 250 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 $500.00.

Dated: September 7, 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. 2018–19883 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0043]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new 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 November 13, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0043 in the body of the letter, the agency name and Docket ID USCIS–2007–0013. 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–2007–0013;

(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–2007–0013 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Temporary Protective Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–821; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–821 is necessary for USCIS to gather the information necessary to adjudicate TPS applications and determine if an applicant is eligible for TPS.

(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–821 is 4,000 and the estimated hour burden per response is 2.41 hours. The estimated total number of respondents for the associated biometrics processing is 4,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 14,320 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 $490,000.

Dated: September 7, 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. 2018–19867 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0124]

Agency Information Collection Activities Collection; Extension, Without Change, of a Currently Approved Collection: Request for Deferred Action for Childhood Arrival

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

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.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 15, 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 1615–0124 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:

Comments

The information collection notice was previously published in the **Federal Register** on May 31, 2018, at 83 FR 25025, allowing for a 60-day public comment period. USCIS did receive three comments 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–2012–0012 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Consideration of Deferred Action for Childhood Arrivals.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–821D; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected on this form is used by USCIS to determine eligibility of certain individuals who were brought to the United States as children and meet the following guidelines to be considered for deferred action for childhood arrivals:

1. Were under the age of 31 as of June 15, 2012;

2. Came to the United States before reaching their 16th birthday, and established residence at that time;

3. Have continuously resided in the United States since June 15, 2007, up to the present time;

4. Were present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with USCIS;

5. Entered without inspection before June 15, 2012, or their lawful immigration status expired as of June 15, 2012;

6. currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and

7. Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

These individuals will be considered for relief from removal from the United States or from being placed into removal proceedings as part of the deferred action for childhood arrivals process. Those who submit requests with USCIS and demonstrate that they meet the threshold guidelines may have removal action in their case deferred for a period of two years, subject to renewal (if not terminated), based on an individualized, case by case assessment of the individual's equities. Only those individuals who can demonstrate, through verifiable documentation, that they meet the threshold guidelines will be considered for deferred action for childhood arrivals, except in exceptional circumstances.

(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–821D initial requests is 40,819 and the estimation hour burden per response is 3 hours. The estimated total number of respondents for the information collection I–821D renewal requests is 418,775 and the estimation hour burden per response is 3 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 1,378,782.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total cost burden associated with this collection of information is $78,820,371.

Dated: September 7, 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. 2018–19866 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0013]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Travel Document, Form I–131; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

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.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 15, 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 [1615–0013] 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:

Comments

The information collection notice was previously published in the **Federal Register** on May 15 2018, at 83 FR 24332, allowing for a 60-day public comment period. USCIS did not receive any comments 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–2007–0045 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Travel Document, Form I–131; Extension, Without Change, of a Currently Approved Collection.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–131; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Certain aliens, principally permanent or conditional residents, refugees or asylees, applicants for adjustment of status, aliens in Temporary Protected Status (TPS), and aliens abroad seeking humanitarian parole who need to apply for a travel document to lawfully enter or reenter the United States. Eligible recipients of deferred action under childhood arrivals (DACA) may now request an advance parole documents based on humanitarian, educational and employment reasons. Lawful permanent residents may now file requests for travel permits (transportation letter or boarding foil).

(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–131 is 483,920 and the estimated hour burden per response is 2.33 hours; the estimated total number of respondents for biometrics processing is 82,974 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,222,042 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 $142,272,480.

Dated: September 7, 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. 2018–19888 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0060]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Medical Certification for Disability Exception

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

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.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 15, 2018. This process is conducted in accordance with 5 CFR 1320.10.

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 [1615–0060] 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:

Comments

The information collection notice was previously published in the **Federal Register** on May 31, 2018, at 83 FR 25027, allowing for a 60-day public comment period. USCIS did receive one comment 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–2008–0021 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:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–648; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the Form N–648 to substantiate a claim for an exception to the requirements of section 312(a) of the Act. Only medical doctors, doctors of osteopathy, or clinical psychologists licensed to practice in the United States are authorized to certify Form N–648.

(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 N–648 is 4,138 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 8,276 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 $294,129.

Dated: September 7, 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. 2018–19886 Filed 9–12–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–50]

30-Day Notice of Proposed Information Collection: Rent Reform Demonstration: 36-Month Follow-Up Survey and Comprehensive Impact Analysis

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 15, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 23, 2018 at 83 FR 3178.

A. Overview of Information Collection

Title of Information Collection: Rent Reform Demonstration: 36-Month Follow-Up Survey and Comprehensive Impact Analysis.

OMB Approval Number: 2528–0306.

Type of Request: Revision.

Form Number: N/A.

Description of the Need for the Information and Proposed Use: The U.S. Department of Housing and Urban Development (HUD) is conducting the Rent Reform Demonstration under contract with MDRC and its subcontractors (The Bronner Group, Quadel Consulting Corporation, and the Urban Institute). The 36-month follow-up survey will be conducted by a survey contractor. The project is a random assignment trial of an alternative rent system. In 2015 and 2016, 6,660 families were randomly assigned to either participate in the new/alternative rent system or to continue in the current system. For voucher holders, outcomes of the alternative system are hypothesized to be increases in earnings, employment and job retention, among others. Random assignment limits the extent to which selection bias drives observed results. The demonstration will document the progress of a group of housing voucher holders, who were drawn from current residents at the four Moving to Work (MTW) Demonstration public housing agencies (PHAs) that are participating in the Rent Reform Demonstration:

(1) Lexington Housing Authority (LHA), Lexington, Kentucky;

(2) Louisville Metro Housing Authority (LMHA), Louisville, Kentucky;

(3) San Antonio Housing Authority (SAHA), San Antonio, Texas; and

(4) District of Columbia Housing Authority (DCHA), Washington, DC

The impact evaluation's intent is to gain an understanding of the impact of the alternative rent system on the families as well as the administrative burden on Public Housing Agencies (PHAs). Data collection will include the families that are part of the treatment and control groups, as well as PHA staff. Data for this evaluation will be gathered through a variety of methods including informational interviews, direct observation, surveys, and analysis of administrative records. The work covered under this information request is for the 36-month follow-up survey that will document and contextualize administrative data findings related to employment, earnings, and hardship and study participants' experience with the demonstration.

Estimated total number of hours needed to prepare the information collection including number of respondents, frequency of response, hours of response, and cost of response time:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Consent Form	6,659.00	1.00	6,659.00	0.05	333.00	$8.96	$2,983.68
Long-term Follow-up Survey	6,659.00	1.00	6,659.00	0.50	3,330.00	8.96	29,836.80
Housing Authority Database Extraction Activities	4.00	1.00	4.00	1.00	4.00	36.33	145.32
Total	13,322.00				3,667.00		32,965.80

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority:

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 31, 2018.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–19875 Filed 9–12–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[189D0102DM DS61100000 DLSN00000.000000 DX61101; OMB Control Number 1094–0001]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; The Alternatives Process in Hydropower Licensing

AGENCY: Office of the Secretary, Office of Environmental Policy and Compliance, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary, Office of Environmental Policy and Compliance, Department of the Interior (we, OS–OEPC) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 15, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Dr. Shawn Alam, Office of Environmental Policy and Compliance, U.S. Department of the Interior, MS 5538–MIB, 1849 C Street NW, Washington, DC 20240; or by email to *Shawn_Alam@ios.doi.gov.* Please reference OMB Control Number 1094–0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Dr. Shawn Alam by email at *Shawn_Alam@ios.doi.gov,* or by telephone at (202) 208–5465. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On May 16, 2018, we published a **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information (83 FR 22702). We received no comments in response to that notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OS–OEPC; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OS–OEPC enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OS–OEPC minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of

public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The OMB regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

On November 23, 2016, the Departments of Agriculture, the Interior, and Commerce published a final rule on the March 31, 2015 revised interim final rule to the interim rule originally published in November 2005 at 7 CFR part 1, 43 CFR part 45, and 50 CFR part 221, to implement section 241 of the Energy Policy Act of 2005 (EP Act), Public Law 109–58, enacted on August 8, 2005. Section 241 of the EP Act added a new section 33 to the Federal Power Act (FPA), 16 U.S.C. 823d, that allowed the license applicant or any other party to the license proceeding to propose an alternative to a condition or prescription that one or more of the Departments develop for inclusion in a hydropower license issued by the Federal Energy Regulatory Commission (FERC) under the FPA. This provision required that the Department of Agriculture, the Department of the Interior, and the Department of Commerce collect the information covered by 1094–0001.

Under FPA section 33, the Secretary of the Department involved must accept the proposed alternative if the Secretary determines, based on substantial evidence provided by a party to the license proceeding or otherwise available to the Secretary, (a) that the alternative condition provides for the adequate protection and utilization of the reservation, or that the alternative prescription will be no less protective than the fishway initially proposed by the Secretary, and (b) that the alternative will either cost significantly less to implement or result in improved operation of the project works for electricity production.

In order to make this determination, the regulations require that all of the following information be collected: (1) A description of the alternative, in an equivalent level of detail to the Department's preliminary condition or prescription; (2) an explanation of how the alternative: (i) If a condition, will provide for the adequate protection and utilization of the reservation; or (ii) if a prescription, will be no less protective than the fishway prescribed by the bureau; (3) an explanation of how the alternative, as compared to the preliminary condition or prescription, will: (i) Cost significantly less to implement; or (ii) result in improved operation of the project works for electricity production; (4) an explanation of how the alternative or revised alternative will affect: (i) Energy supply, distribution, cost, and use; (ii) flood control; (iii) navigation; (iv) water supply; (v) air quality; and (vi) other aspects of environmental quality; and (5) specific citations to any scientific studies, literature, and other documented information relied on to support the proposal.

This notice of proposed renewal of an existing information collection is being published by the Office of Environmental Policy and Compliance, Department of the Interior, on behalf of all three Departments, and the data provided below covers anticipated responses (alternative conditions/prescriptions and associated information) for all three Departments.

Title of Collection: 7 CFR part 1; 43 CFR part 45; 50 CFR part 221; The Alternatives Process in Hydropower Licensing.

OMB Control Number: 1094–0001.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or for-profit entities.

Total Estimated Number of Annual Respondents: 5.

Total Estimated Number of Annual Responses: 5.

Estimated Completion Time per Response: 500 hours.

Total Estimated Number of Annual Burden Hours: 2,500 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once per alternative proposed.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Michaela E. Noble,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 2018–19973 Filed 9–12–18; 8:45 am]

BILLING CODE 4334–63–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–486 and 731–TA–1195–1196 (Review)]

Utility Scale Wind Towers From China and Vietnam; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty and countervailing duty orders on utility scale wind towers from China and Vietnam would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: September 14, 2018.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 9, 2018, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (83 FR 17446, April 19, 2018); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of

the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on December 18, 2018, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on January 24, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 16, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on January 18, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 10, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is January 31, 2019. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before January 31, 2019. On February 25, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 28, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C.1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 7, 2018.

Jessica Mullan,

Attorney Advisor.

[FR Doc. 2018–19894 Filed 9–12–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1132]

Certain Motorized Vehicles and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 1, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of FCA US LLC of Auburn Hills, Michigan. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motorized vehicles and components thereof by reason of: (1) Infringement of U.S. Trademark Registration No. 4,272,873 (''the '873 mark''); U.S. Trademark Registration No. 2,862,487 (''the '487 mark''); U.S. Trademark Registration No. 2,161,779 (''the '779 mark''); U.S. Trademark Registration No. 2,794,553 (''the '553 mark''); and U.S. Trademark Registration No. 4,043,984 (''the '984 mark''); (2) trademark dilution and

unfair competition violating the complainant's common law trademark rights; and (3) trade dress infringement. The complaint further alleges that an industry in the United States exists and that the alleged violations have the threat or effect of causing substantial injury to that industry as required by the applicable Federal Statutes.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 2018, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(A) of Section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of trade dress infringement, trademark dilution, or infringement of common law trademarks, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the '873 mark; the '487 mark; the '779 mark; the '553 mark; and the '984 mark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''motorized vehicles, kits and assemblies for motorized vehicles, and replacement and aftermarket components for motorized vehicles'';

(3) Pursuant to section 210.10(b)(3) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(3), the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, within 100 days of institution except for good cause shown, as to whether the complainant is contractually barred from enforcing its intellectual property against the named respondents. In the alternative, the presiding Administrative Law Judge may decide this issue through summary determination proceedings if he or she determines that no material facts are in dispute. Notwithstanding any Commission Rules to the contrary, which are hereby waived, any such decision should be issued in the form of an initial determination (ID) under Rule 210.42(a)(3), 19 CFR 210.42(a)(3). The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45;

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: FCA US LLC, 1000 Chrysler Drive, Auburn Hills, MI 48321.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Mahindra & Mahindra Ltd., Mahindra Towers, Dr. G.M. Bhosle Marg, P.K. Kurne Chowk, Worli, Mumbai 400 018, India

Mahindra Automotive North America, Inc., 275 Rex Boulevard, Auburn Hills, MI 48326

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 7, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–19904 Filed 9–12–18; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–597 and 731–TA–1407 (Final)]

Cast Iron Soil Pipe From China; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigations Nos. 701–TA–597 and 731–TA–1407 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of cast iron soil pipe from China, provided for in heading 7303.00.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.[1]

DATES: September 10, 2018.

FOR FURTHER INFORMATION CONTACT: Junie Joseph (202–205–3363), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of cast iron soil pipe, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on January 26, 2018, by Cast Iron Soil Pipe Institute, Mundelein, Illinois.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 13, 2018, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, January 15, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 10, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on January 11, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 20, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 22, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before January 22, 2019. On February 7, 2019, the Commission will make available to parties all information on which they have not had an opportunity to

[1] For purposes of these investigations, Commerce has defined the subject merchandise as ''cast iron soil pipe, whether finished or unfinished, regardless of industry or proprietary specifications, and regardless of wall thickness, length, diameter, surface 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.''

For a full description of Commerce's scope, see *Cast Iron Soil Pipe from the People's Republic of China: Initiation of Less-Than-Fair Value Investigation,* 83 FR 8053, February 23, 2018.

comment. Parties may submit final comments on this information on or before February 11, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 10, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–19948 Filed 9–12–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 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:

(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:* OVW Solicitation Template.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–0020. U.S. Department of Justice, OVW.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes applicants to OVW grant programs authorized under the Violence Against Women Act of 1994 as amended. These include States, territories, Tribes or units of local government, institutions of higher education including colleges and universities, tribal organizations, Federal, State, tribal, territorial or local courts or court-based programs, State sexual assault coalitions, State domestic violence coalitions; territorial domestic violence or sexual assault coalitions, tribal coalitions, community-based organizations, and non-profit, nongovernmental organizations. The purpose of the solicitation template is to provide a framework to develop program-specific announcements soliciting applications for funding. A program solicitation outlines the specifics of the funding program; describes the requirements for eligibility; instructs an applicant on the necessary components of an application under a specific program (*e.g.* project activities and timeline, proposed budget): and provides registration dates, due dates, and instructions on how to apply within the designated application system. OVW is proposing revisions to the current OMB-approved solicitation template to reduce duplicative language, employ plain language, ensure consistency, outline all requirements clearly, and conform with 2 CFR part 200, Uniform Administrative Requirements, Cost Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that information will be collect annually from the approximately 1800 respondents (applicants to the OVW grant programs). The public reporting burden for this collection of information is estimated at up to 30 hours per application. The 30-hour estimate is based on the amount of time to prepare a narrative, budget and other materials for the application and, if required, to coordinate with and develop a memorandum of understanding with requisite project partners.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 54,000 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice

Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: September 10, 2018.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2018–19917 Filed 9–12–18; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0091]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Previously Approved Collection; Assumption of Concurrent Federal Criminal Jurisdiction in Certain Areas of Indian Country

AGENCY: Office of Tribal Justice, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Office of Tribal Justice, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until October 15, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact please contact Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue NW, Room 2310, Washington, DC 20530 (phone: 202–514–8812).

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 Office of Tribal Justice, 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:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Request to the Attorney General for Assumption of Concurrent Federal Criminal Jurisdiction.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form. The applicable component within the Department of Justice is the Office of Tribal Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The Department of Justice published a rule to establish the procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request. The purpose of the collection is to provide information from the requesting tribe sufficient for the Attorney General to make a decision whether to consent to the request.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Fewer than 350 respondents; 80 hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated maximum 28,000 annual total burden hours associated with this collection (up to 350 respondents × 80 hours = 28,000 hours). Fewer than 350 Indian tribes are eligible for the assumption of concurrent criminal jurisdiction by the United States. The Department of Justice does not know how many eligible tribes will, in fact, make such a request. The information collection will require Indian tribes seeking assumption of concurrent criminal jurisdiction by the United States to provide certain information relating to public safety within the Indian country of the tribe.

If additional information is required please 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, Suite 3E.405B, Washington, DC 20530

Dated: September 10, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–19899 Filed 9–12–18; 8:45 am]

BILLING CODE 4410–A5–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2019.

DATES: The annual list of labor surplus areas is applicable October 1, 2018, for all states, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue NW, Room C–4514, Washington, DC 20210. Telephone: (202) 693–2870 (This is not a toll-free number) or email *wright.samuel.e@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. These regulations require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations, and to publish annually a list of labor surplus areas. Pursuant to those regulations, ETA is hereby publishing the annual list of labor surplus areas. In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on

labor market area conditions, discounting temporary or seasonal factors.

Eligible Labor Surplus Areas

A Labor Surplus Area (LSA) is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. ETA uses only official unemployment estimates provided by the Bureau of Labor Statistics in making these classifications. The average unemployment rate for all states includes data for the Commonwealth of Puerto Rico. LSA classification criteria stipulate a civil jurisdiction must have a ''floor unemployment rate'' of 6.0 percent or higher to be classified an LSA. Any civil jurisdiction that has a ''ceiling unemployment rate'' of 10.0 percent or higher is classified an LSA.

Civil jurisdictions are defined as follows:

1. A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or

2. A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities; or

3. All counties, except for those counties which contain any type of civil jurisdictions defined in ''1'' or ''2'' above; or

4. A ''balance of county'' consisting of a county less any component cities and townships identified in ''1'' or ''2'' above; or

5. A county equivalent, which is a town in the States of Connecticut, Massachusetts, and Rhode Island, or a municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

The Department of Labor (DOL) issues the LSA list on a fiscal year basis. The list becomes effective each October 1 and remains in effect through the following September 30. The reference period used in preparing the current list is January 2016 through December 2017. The national average unemployment rate (including Puerto Rico) during this period is rounded to 4.66 percent. Twenty percent higher than the national unemployment rate during this period is rounded to 5.59 percent. Since 5.59 percent is below the ''floor unemployment rate'' of 6.0 percent, a civil jurisdiction must have a two-year unemployment rate of 6.0 percent in order to be classified an LSA. Therefore, areas included on the FY 2019 LSA list had an unemployment rate for the reference period of 6.0 percent or higher. To ensure that all areas classified as labor surplus meet the requirements, when a city is part of a county and meets the unemployment qualifier as an LSA, that city is identified in the LSA list; the balance of county, not the entire county, will be identified as an LSA if the balance of county also meets the LSA unemployment criteria. The FY 2019 LSA list and statistical data on the current and prior year's LSAs are available at ETA's LSA website at *http://www.doleta.gov/programs/lsa.cfm.*

Petition for Exceptional Circumstance Consideration

The classification procedures also provide criteria for the designation of LSAs under exceptional circumstances criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment that is not temporary or seasonal and that was not reflected in the data for the two-year reference period. Under the program's exceptional circumstance procedures, LSA classifications can be made for civil jurisdictions, Metropolitan Statistical Areas, or Combined Statistical Areas, as defined by the U.S. Office of Management and Budget. In order for an area to be classified as an LSA under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to the Department of Labor's ETA. The current criteria for an exceptional circumstance classification are:

(1) An area's unemployment rate is at least 6.0 percent for each of the three most recent months;

(2) a projected unemployment rate of at least 6.0 percent for each of the next 12 months because of an event; and

(3) documentation that the exceptional circumstance event has occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, Metropolitan Statistical Areas, or Micropolitan Statistical Areas.

State Workforce Agencies may submit petitions in electronic format to *wright.samuel.e@dol.gov,* or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW, Room C–4514, Washington, DC 20210, Attention Samuel Wright. Data collection for the petition is approved under OMB 1205–0207, expiration date July 31, 2020.

Signed at Washington, DC.

Rosemary Lahasky,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 2018–19905 Filed 9–12–18; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

Request of the U.S. Intellectual Property Enforcement Coordinator for Public Comments: Development of the Joint Strategic Plan on Intellectual Property Enforcement

AGENCY: Office of the U.S. Intellectual Property Enforcement Coordinator, Executive Office of the President, Office of Management and Budget.

ACTION: Request for written submissions from the public.

SUMMARY: The Federal Government is starting the process to develop a new 3-year Joint Strategic Plan on Intellectual Property Enforcement. By committing to common goals, the U.S. Government will more effectively and efficiently promote and protect our intellectual property. In this request for comments, the Executive Office of the President (''EOP''), Office of the U.S. Intellectual Property Enforcement Coordinator invites public input and participation in shaping the Administration's intellectual property enforcement strategy.

The Office of the U.S. Intellectual Property Enforcement Coordinator (''IPEC'') is charged with developing, with certain Federal departments and agencies, the Administration's Joint Strategic Plan on Intellectual Property Enforcement for submission to Congress every three years. The previous 3-year Joint Strategic Plans were issued in 2010, 2013, and 2016. To assist IPEC and Federal agencies in our preparation of the fourth 3-year plan, IPEC requests input and recommendations from the public for improving the U.S. Government's intellectual property enforcement efforts, along the lines of this Administration's four-part strategic approach, described in greater detail below.

DATES: Submissions must be received on or before November 13, 2018, at 5 p.m.

ADDRESSES: All submissions should be electronically submitted to *http://www.regulations.gov.* If you are unable to provide submissions to *regulations.gov,* you may contact the Office of the U.S. Intellectual Property

Enforcement Coordinator at *intellectualproperty@omb.eop.gov* using the subject line ''Development of the Joint Strategic Plan on Intellectual Property Enforcement'' to arrange for an alternate method of transmission. The *regulations.gov* website is a Federal E-Government website that allows the public to find, review and submit comments on documents that have published in the **Federal Register** and that are open for comment. Submissions filed via the *regulations.gov* website will be available to the public for review and inspection. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary business information.

FOR FURTHER INFORMATION CONTACT: John Levock, 202–395–3826, Office of the U.S. Intellectual Property Enforcement Coordinator, at *intellectualproperty@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Since January 2017, President Trump and his Administration have worked to promote strong intellectual property rights protection and enforcement, both domestically and abroad. As part of an integrated approach, the Trump Administration views our intellectual property strategy, policy and enforcement efforts, together, as key to helping secure the future of our innovative economy and to maintaining our competitive advantage. As the Administration continues to build on past strategic efforts in all areas of intellectual property policy (including patents, copyrights, trademarks and trade secrets), both domestically and abroad, the Administration also recognizes that for the United States to maintain its future economic competitiveness, we need to think strategically and shift the paradigm to one where we not only place America First, but regard America's inventive and creative capacity as something that we must protect, promote and prioritize.

As explained in the Annual Intellectual Property Report to Congress (*https://www.whitehouse.gov/wp-content/uploads/2017/11/2018Annual_IPEC_Report_to_Congress.pdf*), the Trump Administration has taken significant actions to promote and protect intellectual property. The Administration's four-part strategic approach includes engagement with our trading partners; effective use of all our legal authorities, including our trade tools; expanded law enforcement action and cooperation; and engagement and partnership with the private sector and other stakeholders. The goal is to ensure a level playing field for American innovators and creators, where their innovations and creations are respected and protected, and for systems to be in place that allow American businesses to operate in a free, fair and open marketplace.

As the United States government works to advance American economic interests overseas, a significant component of our enforcement and protection efforts includes addressing trade enforcement, market access, competition, digital trade, cybersecurity, and rule of law concerns in the intellectual property space around the world. American innovators and creators must be able to operate in foreign markets that provide them with clear paths to secure and use their IP. Countries and foreign companies should not be allowed to profit from the theft or misappropriation of American intellectual property through actions including trade secret theft, IP infringement, piracy, forced technology transfers or localization requirements. Additionally, American brand holders must have full and fair opportunity to market and sell their products and use their properly registered trademarks across the globe, without undue restrictions.

To that end, and as set forth by the PRO IP Act (15 U.S.C. 8113), the objectives of the Joint Strategic Plan include:

- Reducing the supply of infringing goods, domestically and internationally;
- Identifying weaknesses, duplication of efforts, waste, and other unjustified impediments to effective enforcement actions;
- Promoting information sharing between participating agencies to the extent permissible by law;
- Disrupting and eliminating infringement networks in the U.S. and in other countries;
- Strengthening the capacity of other countries to protect and enforce intellectual property rights;
- Reducing the number of countries that fail to enforce intellectual property rights effectively;
- Assisting other countries to more effectively enforce intellectual property rights;
- Protecting intellectual property rights in other countries by:
  - Working with other countries to reduce intellectual property crimes in other countries;
  - Improving information sharing between U.S. and foreign law enforcement agencies; and
  - Establishing procedures for consulting with interested groups within other countries;
- Establishing effective and efficient training programs and other forms of technical assistance to enhance the enforcement efforts of foreign governments through:
  - Minimizing the duplication of U.S. Government training and assistance efforts;
  - Prioritizing deployment of U.S. Government resources to those countries where programs can be carried out most effectively with the greatest impact on reducing the number of infringing products imported into the United States, while also protecting the intellectual property rights of U.S. rights holders and the interests of U.S. persons otherwise harmed by infringements in other countries.

IPEC welcomes input and recommendations from the public for improving the U.S. Government's intellectual property enforcement efforts.

In submitting comments for the development of the fourth Joint Strategic Plan, comments should be organized along the lines of the Administration's four-part strategic approach to promote and protect intellectual property (as discussed above and in IPEC's Annual Intellectual Property Report to Congress):

- Engagement with our trading partners
- Effective use of all our legal authorities, including our trade tools
- Expanded law enforcement action and cooperation
- Engagement and partnership with the private sector and other stakeholders.

Vishal J. Amin,

United States Intellectual Property Enforcement Coordinator, Executive Office of the President.

[FR Doc. 2018–19863 Filed 9–12–18; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for International Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Office of International Science and Engineering—PIRE: Crafting Optimal Learning in Science Environments—Reverse Site Visit (#10749).

Date and Time: October 12, 2018; 8:00 a.m.–5:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

Type of Meeting: Part—Open.

Contact Person: Cassandra Dudka, PIRE Program Manager, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone 703/292–7250.

Purpose of Meeting: NSF reverse site visit to conduct a review during year 3 of the five-year award period. To conduct an in-depth evaluation of performance, to assess progress towards goals, and to provide recommendations.

Agenda: See attached.

Reason for Closing: Topics to be discussed and evaluated during closed portions of the reverse site review will include information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 7, 2018.

Crystal Robinson,

Committee Management Officer.

Partnerships for International Research and Education (PIRE) Reverse Site Visit Agenda PIRE–1545684 (PI: Barbara Schneider)

NSF Room C3080

Friday, October 12, 2018

8:00 a.m. Panelists arrive. Coffee/light refreshments available
8:15 a.m.–8:45 a.m. Panel Orientation (CLOSED), PIRE Rationale and Goals, Charge to Panel
8:45 a.m. PIs arrive. Introductions (OPEN)
9:00 a.m.–11:30 a.m. PIRE Project Presentation should cover the following: (OPEN)
Research
Integrating Research & Education
Students (*e.g.* involvement in project, recruitment, diversity)
Project Management and Communication
Evaluation & Assessment
Institutional Support
International Partnerships
11:30 a.m.–12:30 p.m. Questions and Answers
12:30 p.m.–2:00 p.m. Working Lunch—Panel Discussion (CLOSED)
2:00 p.m.–2:30 p.m. Initial Feedback to Project Team (CLOSED)
2:30 p.m. PIRE PI and presenters are dismissed
2:30 p.m.–4:30 p.m. Panel meets for Reverse Site Visit Report Preparation (CLOSED)
4:30 p.m.–4:45 p.m. Report presented to and discussion held with NSF staff (CLOSED)
5:00 p.m. End of Reverse Site Visit

[FR Doc. 2018–19891 Filed 9–12–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2018–0168]

Weld Residual Stress Finite Element Analysis Validation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting public comment on a draft NUREG entitled, ''Weld Residual Stress Finite Element Analysis Validation: Part II—Acceptance and Guidelines.'' This report proposes a methodology by which analysts can increase confidence in modeling capabilities for regulatory applications involving weld residual stress calculation. Specifically, the NRC staff posed four questions for consideration by the public (see **SUPPLEMENTARY INFORMATION**).

DATES: Submit comments by November 13, 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 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–2018–0168.* Address questions about NRC dockets in *Regulations.gov* 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: Michael Benson, Office of Nuclear Regulatory Research, telephone: 301–415–2425, email: *michael.benson@nrc.gov;* or Patrick Raynaud, Office of Nuclear Regulatory Research, telephone: 301–415–1987, email: *patrick.raynaud@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–2018–0168* 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–2018–0168.*
- *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 ''*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 draft NUREG on ''Weld Residual Stress Validation'' is available in ADAMS under Accession No. ML18242A007.
- *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–2018–0168* 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. Background

Between 2008–2015, the Electric Power Research Institute and the NRC

conducted a joint research program on weld residual stress (WRS) modeling under a memorandum of understanding. This research program consisted of several modeling and measurement studies on prototypic mockups to represent the residual stress state in safety-related nuclear components susceptible to primary water stress corrosion cracking, see NUREG–2162 (ADAMS Accession No. ML14087A118). Since then, the NRC has made use of the data gained in that research program to formulate a potential validation scheme for finite element modeling of WRS. The NRC's proposal is documented in a draft NUREG entitled, ''Weld Residual Stress Finite Element Analysis Validation: Part II–Proposed Validation Procedure'' (ADAMS Accession No. ML18242A007). The NRC is requesting public comment on this document. Specifically, the NRC would like feedback on four specific technical issues related to the proposed validation procedure:

1. The NRC recommended the use of the average hardening approach in the current version of the draft NUREG (''average hardening'' meaning the arithmetic mean of isotropic and nonlinear kinematic results). Given the discussion in Section 5.2, please comment on the advantages and disadvantages of using either the averaging approach or isotropic hardening. What initial and recurring costs are foreseen in implementing either approach in future analyses?

2. The NRC introduced four options for benchmark in Section 5.4.2. The NRC chose to develop the validation scheme with a benchmark based upon the modeling results, rather than the measurements. Please comment on the NRC's proposal and whether the justification is adequate.

3. Please comment on the proposed quality metrics introduced in Section 5.4.7. Are these metrics appropriate for their intended purpose? Has the NRC presented an appropriate technical justification (see Sections 5.4.8 and 5.4.10) for the proposed metrics?

4. Please comment on the feasibility of the proposed validation scheme. What initial (*e.g.,* software and guidance development) and recurring (*i.e.,* costs for each analysis) costs are foreseen for implementing the validation scheme?

Dated at Rockville, Maryland, this 10th day of September, 2018.

For the Nuclear Regulatory Commission.

Raj Iyengar,

Chief, Component Integrity Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2018–19941 Filed 9–12–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1050; NRC–2016–0231]

Interim Storage Partners LLC's Consolidated Interim Spent Fuel Storage Facility; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental impact statement; reopening of scoping comment period; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on September 4, 2018, reopening the scoping comment period for the NRC's Environmental Impact Statement (EIS) for the Interim Storage Partners LLC (ISP) proposed consolidated interim storage facility for spent nuclear fuel, to be located on the Waste Control Specialists LLC (WCS) site in Andrews County, Texas.

DATES: The correction is effective September 13, 2018.

ADDRESSES: Please refer to Docket ID NRC–2016–0231 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0231. Address questions about dockets in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*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.* Documents related to WCS' license application can be found under Docket Number 72–1050.
- *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.
- *Project web page:* Information related to the ISP CISF project can be accessed on the NRC's project web page at: *https://www.nrc.gov/waste/spent-fuel-storage/cis/waste-control-specialist.html.*

FOR FURTHER INFORMATION CONTACT: James Park, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6954; email: *James.Park@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the FR on September 4, 2018, in FR Doc. 2018–18067, on page 44923, in column one, under the second paragraph, last line in Section II, ''Discussion,'' correct the date from ''October 19, 2018'' to ''September 4, 2018.'' The scoping comment period due date was inadvertently added.

The NRC has decided to reopen the EIS public scoping comment period on the application until October 19, 2018, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, on September 7, 2018.

For the Nuclear Regulatory Commission.

Brian W. Smith,

Deputy Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–19928 Filed 9–12–18; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2018–301]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 17, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–301; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 10 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 7, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr*; Comments Due:* September 17, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–19924 Filed 9–12–18; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 39 FR 45149.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, September 13, 2018, at 1:00 p.m.

CHANGES IN THE MEETING: A portion of this meeting will be held as an open session at 8:00 a.m. on Thursday, September 13, 2018. Agenda items include:

1. Administrative Items

The closed session will be held promptly afterwards.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Acting Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Acting Secretary.

[FR Doc. 2018–20066 Filed 9–11–18; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 154; SEC File No. 270–438; OMB Control No. 3235–0495.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The federal securities laws generally prohibit an issuer, underwriter, or dealer from delivering a security for sale unless a prospectus meeting certain requirements accompanies or precedes the security. Rule 154 (17 CFR 230.154) under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act'') permits, under certain circumstances, delivery of a single prospectus to investors who purchase securities from the same issuer and share the same address (''householding'') to satisfy the applicable prospectus delivery requirements.[1] The purpose of rule 154 is to reduce the amount of duplicative prospectuses delivered to investors sharing the same address.

Under rule 154, a prospectus is considered delivered to all investors at a shared address, for purposes of the federal securities laws, if the person relying on the rule delivers the prospectus to the shared address, addresses the prospectus to the investors as a group or to each of the investors individually, and the investors consent to the delivery of a single prospectus. The rule applies to prospectuses and prospectus supplements. Currently, the rule permits householding of all prospectuses by an issuer, underwriter, or dealer relying on the rule if, in addition to the other conditions set forth in the rule, the issuer, underwriter, or dealer has obtained from each investor written or implied consent to householding.[2] The rule requires issuers, underwriters, or dealers that wish to household prospectuses with implied consent to send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless the investors provide contrary instructions. In addition, at least once a year, issuers, underwriters, or dealers relying on rule

[1] The Securities Act requires the delivery of prospectuses to investors who buy securities from an issuer or from underwriters or dealers who participate in a registered distribution of securities. *See* Securities Act sections 2(a)(10), 4(1), 4(3), 5(b) [15 U.S.C. 77b(a)(10), 77d(1), 77d(3), 77e(b); *see also* rule 174 under the Securities Act (17 CFR 230.174) (regarding the prospectus delivery obligation of dealers); rule 15c2–8 under the Securities Exchange Act of 1934 (17 CFR 240.15c2–8) (prospectus delivery obligations of brokers and dealers).

[2] Rule 154 permits the householding of prospectuses that are delivered electronically to investors only if delivery is made to a shared electronic address and the investors give written consent to householding. Implied consent is not permitted in such a situation. *See* rule 154(b)(4).

154 for the householding of prospectuses relating to open-end management investment companies that are registered under the Investment Company Act of 1940 (''mutual funds'') must explain to investors who have provided written or implied consent how they can revoke their consent.[3] Preparing and sending the notice and the annual explanation of the right to revoke are collections of information.

The rule allows issuers, underwriters, or dealers to household prospectuses if certain conditions are met. Among the conditions with which a person relying on the rule must comply are providing notice to each investor that only one prospectus will be sent to the household and, in the case of issuers that are mutual funds, providing to each investor who consents to householding an annual explanation of the right to revoke consent to the delivery of a single prospectus to multiple investors sharing an address. The purpose of the notice and annual explanation requirements of the rule is to ensure that investors who wish to receive individual copies of prospectuses are able to do so.

Although rule 154 is not limited to mutual funds, the Commission believes that it is used mainly by mutual funds and by broker-dealers that deliver prospectuses for mutual funds. The Commission is unable to estimate the number of issuers other than mutual funds that rely on the rule.

The Commission estimates that, as of August 2018, there are approximately 1,590 mutual funds, approximately 400 of which engage in direct marketing and therefore deliver their own prospectuses. Of the approximately 400 mutual funds that engage in direct marketing, the Commission estimates that approximately half of these mutual funds (200) (i) do not send the implied consent notice requirement because they obtain affirmative written consent to household prospectuses in the fund's account opening documentation; or (ii) do not take advantage of the householding provision because of electronic delivery options which lessen the economic and operational benefits of rule 154 when compared with the costs of compliance.

The Commission estimates that there are approximately 175 broker-dealers that carry customer accounts for the remaining mutual funds and therefore may be required to deliver mutual fund prospectuses. The Commission estimates that each affected broker-dealer will spend, on average, 20 hours complying with the notice requirement of the rule, for a total of 3,500 hours. Therefore, the total number of respondents for rule 154 is 475 (300[4] mutual funds plus 175 broker-dealers), and the estimated total hour burden is approximately 7,975 hours (4,300 hours for mutual funds plus 3,675 hours for broker-dealers).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 7, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19881 Filed 9–12–18; 8:45 am]

BILLING CODE 8011–01–P

[3] See Rule 154(c).

[4] The Commission estimates that 200 mutual funds prepare both the implied consent notice and the annual explanation of the right to revoke consent + 100 mutual funds that prepare only the annual explanation of the right to revoke.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–335, OMB Control No. 3235–0381]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form 40–F

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 40–F (17 CFR 249.240f) is used by certain Canadian issuers to register a class of securities pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78*l*) or as an annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m(a) or 78o(d)). The information required in the Form 40–F is used by investors in making investment decisions with respect to the securities of such Canadian companies. We estimate that Form 40–F takes approximately 429.93 hours per response and is filed by approximately 132 respondents. We estimate that 25% of the 429.93 hours per response (107.48 hours) is prepared by the issuer for a total reporting burden of 14,187 (107.48 hours per response × 132 responses).

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 control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street, NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: September 7, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19879 Filed 9–12–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange

Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17Ad–13, SEC File No. 270–263; OMB Control No. 3235–0275

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 17Ad–13 (17 CFR 240.17Ad–13). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–13 (17 CFR 240.17Ad–13) requires an annual study and evaluation of internal accounting controls under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). It requires approximately 100 registered transfer agents to obtain an annual report on the adequacy of their internal accounting controls from an independent accountant. In addition, transfer agents must maintain copies of any reports prepared pursuant to Rule 17Ad–13 plus any documents prepared to notify the Commission and appropriate regulatory agencies in the event that the transfer agent is required to take any corrective action. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents are exempt from Rule 17Ad–13 as are transfer agents that service only their own companies' securities.

Approximately 100 independent, professional transfer agents must file the independent accountant's report annually. We estimate that the annual internal time burden for each transfer agent to comply with Rule 17Ad–13 by submitting the report prepared by the independent accountant to the Commission is minimal. The time required for the independent accountant to prepare the accountant's report varies with each transfer agent depending on the size and nature of the transfer agent's operations. The Commission estimates that, on average, each report can be completed by the independent accountant in 120 hours, resulting in a total of 12,000 external hours annually (120 hours × 100 reports). The burden was estimated using Commission review of filed Rule 17Ad–13 reports and Commission conversations with transfer agents and accountants. The Commission estimates that, on average, 120 hours are needed to perform the study, prepare the report, and retain the required records on an annual basis. Assuming an average hourly rate of an independent accountant of $60, the average total annual cost of the report is $7,200. The total annual cost for the approximate 100 respondents is approximately $720,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have any practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 7, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19880 Filed 9–12–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–586, OMB Control No. 3235–0647]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 204

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 204 (17 CFR 242.204) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 204(a) provides that a participant of a registered clearing agency must deliver securities to a registered clearing agency for clearance and settlement on a long or short sale in any equity security by settlement date, or if a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency in any equity security for a long or short sale transaction in the equity security, the participant shall, by no later than the beginning of regular trading hours on the applicable close-out date, immediately close out its fail to deliver positions by borrowing or purchasing securities of like kind and quantity. For a short sale transaction, the participant must close out a fail to deliver by no later than the beginning of regular trading hours on the settlement day following the settlement date. If a participant has a fail to deliver that the participant can demonstrate on its books and records resulted from a long sale, or that is attributable to bona-fide market making activities, the participant must close out the fail to deliver by no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date. Rule 204 is intended to help further the Commission's goal of reducing fails to deliver by maintaining the reductions in fails to deliver achieved by the adoption of temporary Rule 204T, as well as other actions taken by the Commission. In addition, Rule 204 is intended to help further the Commission's goal of addressing potentially abusive ''naked'' short selling in all equity securities.

The information collected under Rule 204 will continue to be retained and/or provided to other entities pursuant to the specific rule provisions and will be available to the Commission and self-regulatory organization (''SRO'') examiners upon request. The information collected will continue to aid the Commission and SROs in monitoring compliance with these requirements. In addition, the information collected will aid those subject to Rule 204 in complying with its requirements. These collections of information are mandatory.

Several provisions under Rule 204 will impose a ''collection of information'' within the meaning of the Paperwork Reduction Act.

I. *Allocation Notification Requirement:* As of December 31, 2017,

there were 3,893 registered broker-dealers. Each of these broker-dealers could clear trades through a participant of a registered clearing agency and, therefore, become subject to the notification requirements of Rule 204(d). If a participant allocates a fail to deliver position to a broker or dealer pursuant to Rule 204(d), the broker or dealer that has been allocated the fail to deliver position in an equity security must determine whether or not such fail to deliver position was closed out in accordance with Rule 204(a). If such broker or dealer does not comply with the provisions of Rule 204(a), such broker or dealer must immediately notify the participant that it has become subject to the requirements of Rule 204(b). We estimate that a broker or dealer could have to make such determination and notification with respect to approximately 1.76 equity securities per day.[1] We estimate a total of 1,719,772 potential notifications in accordance with Rule 204(d) across all registered broker-dealers (that could be allocated responsibility to close out a fail to deliver position) per year (3,893 registered broker-dealers notifying participants once per day [2] on 1.76 equity securities, multiplied by 251 trading days in 2017). The total estimated annual burden hours per year will be approximately 275,164 burden hours (1,719,772 multiplied by 0.16 hours/notification).

II. *Demonstration Requirement for Fails to Deliver on Long Sales:* As of December 5, 2017, there were 132 participants of NSCC that were registered as broker-dealers. If a participant of a registered clearing agency has a fail to deliver position in an equity security at a registered clearing agency and determined that such fail to deliver position resulted from a long sale, we estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 33 securities per day.[3] We estimate a total of 1,093,356 potential demonstrations in accordance with Rule 204(a)(1) across all broker-dealer participants per year (132 participants checking for compliance once per day on 33 securities, multiplied by 251 trading days in 2017). The total approximate estimated annual burden hour per year will be approximately 174,937 burden hours (1,093,356 multiplied by 0.16 hours/documentation).

III. *Pre-Borrow Notification Requirement:* As of December 5, 2017, there were 132 participants of NSCC that were registered as broker-dealers. If a participant of a registered clearing agency has a fail to deliver position in an equity security, the participant must determine whether or not the fail to deliver position was closed out in accordance with Rule 204(a). We estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 52 equity securities per day.[4] We estimate a total of 1,722,864 potential notifications in accordance with Rule 204(c) across all participants per year (132 broker-dealer participants notifying broker-dealers once per day on 52 securities, multiplied by 251 trading days in 2017). The total estimated annual burden hours per year will be approximately 275,658 burden hours (1,722,864 multiplied by 0.16 hours/documentation).

IV. *Certification Requirement:* As of December 31, 2017, there were 3,893 registered broker-dealers. Each of these broker-dealers may clear trades through a participant of a registered clearing agency. If the broker-dealer determines that it has not incurred a fail to deliver position on settlement date for a long or short sale in an equity security for which the participant has a fail to deliver position at a registered clearing agency or has purchased or borrowed securities in accordance with the pre-fail credit provision of Rule 204(e), we estimate that a broker-dealer could have to make such determination with respect to approximately 1.76 securities per day.[5] We estimate that registered broker-dealers could have to certify to the participant that it has not incurred a fail to deliver position on settlement date for a long or short sale in an equity security for which the participant has a fail to deliver position at a registered clearing agency or, alternatively, that it is in compliance with the requirements set forth in the pre-fail credit provision of Rule 204(e), 1,719,772 times per year (3,893 registered broker-dealers certifying once per day on 1.76 securities, multiplied by 251 trading days in 2017). The total approximate estimated annual burden hour per year will be approximately 275,164 burden hours (1,719,772 multiplied by 0.16 hours/certification).

V. *Pre-Fail Credit Demonstration Requirement:* As of December 31, 2017, there were 3,893 registered broker-dealers. If a broker-dealer purchased or borrowed securities in accordance with the conditions specified in Rule 204(e) and determined that it had a net long position or net flat position on the settlement day for which the broker-dealer is claiming pre-fail credit, we estimate that a broker-dealer could have to make such determination with respect to approximately 1.76 securities per day.[6] We estimate that registered broker-dealers could have to demonstrate on its books and records that it has a net long position or net flat position on the settlement day for which the broker-dealer is claiming pre-fail credit, 1,719,772 times per year (3,893 registered broker-dealers checking for compliance once per day on 1.76 equity securities, multiplied by 251 trading days in 2017). The total approximate estimated annual burden hours per year will be 275,164 burden hours (1,719,772 multiplied by 0.16 hours/demonstration).

The total aggregate annual burden for the collection of information undertaken pursuant to all five provisions is thus 1,276,087 hours per year (275,164 + 174,937 + 275,658 + 275,164 + 275,164).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

[1] The Commission's Division of Economic and Risk Analysis (''DERA'') estimates that there were approximately 6,868 average daily fail to deliver positions during 2017. Across 3,893 registered broker-dealers, the number of securities per registered broker-dealer per trading day is approximately 1.76 equity securities.

[2] Because failure to comply with the close-out requirements of Rule 204(a) is a violation of the rule, we believe that a broker or dealer would make the notification to a participant that it is subject to the borrowing requirements of Rule 204(b) at most once per day.

[3] DERA estimates that during 2017 approximately 62.93% of trade volume was long. DERA estimates that there were approximately 6,868 average daily fail to deliver positions during 2017. Across 132 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 52 equity securities. 62.93% of 52 equity securities per trading day equals approximately 33 securities per day.

[4] *See supra* note 3.

[5] *See supra* note 1.

[6] *See supra* note 1.

under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 7, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19882 Filed 9–12–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–84057; File No. SR–FICC–2018–005]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change To Correct Certain References and Provide Transparency to Existing Processes in the Mortgage-Backed Securities Division Electronic Pool Notification Rules

September 7, 2018.

On July 13, 2018, Fixed Income Clearing Corporation (''FICC'') filed with the U.S. Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2018–005 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on July 26, 2018.[3] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission approves the proposed rule change.

I. Description of the Proposed Rule Change

The proposed rule change would amend FICC's Mortgage-Backed Securities Division (''MSBD'') electronic pool notification (''EPN'') service (''EPN Service'') rules (''EPN Rules'').[4]

A. Background

FICC states that the EPN Service provides an automated manner for market participants with an obligation to deliver pools of mortgages to transmit mortgage pool information efficiently and reliably to their counterparties in real time.[5] Market participants that wish to use the EPN Service (*i.e.,* become ''EPN Users'') are required to submit an application to MBSD.[6] The application process and the use of the EPN Service are governed by the EPN Rules.[7] MBSD's clearing members (''Clearing Members'') are required to be EPN Users; however, one can be an EPN User and not a Clearing Member.[8]

B. Proposed Amendments to the EPN Rules To Include an EPN User's Ongoing Reporting Obligations

FICC proposes to amend the EPN Rules by adding a ''General Continuance Standards'' section. The proposed section would describe two existing MBSD practices with respect to reporting obligations of EPN Users.[9] First, the proposed section would state that an EPN User shall promptly inform FICC, both orally and in writing, if such EPN User no longer complies with any of the EPN Rules' requirements for admission to membership.[10] This notification must occur within two business days from the date on which the EPN User first learns of its non-compliance.[11] Second, the proposed section would state that an EPN User shall notify FICC of certain investigations or proceedings. Specifically, an EPN User must notify FICC within two business days after learning (i) that the EPN User is or will become the subject of an investigation or a proceeding, and (ii) that said investigation or proceeding would cause the EPN User to fall out of compliance with any of the requirements for membership set forth in the EPN Rules.[12] However, the EPN User would not be required to provide such a notification to FICC if doing so would cause the EPN User to violate an applicable law, rule, or regulation.[13]

C. Proposed Changes To Amend the EPN Rules To Define Circumstances Under Which FICC May Determine an EPN User's Compliance With EPN Rules

The proposed ''General Continuance Standards'' section would identify when FICC may review an EPN User's access to the EPN Service. The proposed ''General Continuance Standards'' section also would identify when FICC may seek written assurances from EPN Users.

First, the proposal would identify five circumstances when FICC would assess if an EPN User should retain access to the EPN Service: (i) If an EPN User experiences a Reportable Event; [14] (ii) if an EPN User fails to maintain the requirements for admission to membership; [15] (iii) if an EPN User violates any EPN Rule or other agreement with FICC; (iv) if an EPN User fails to satisfy any obligation to FICC in a timely manner; or (v) if FICC otherwise deems it necessary or advisable, in order to protect FICC, its other EPN Users, or its creditors or investors, to safeguard securities and funds in the custody or control of FICC, or to promote the prompt and accurate processing, clearance or settlement of securities transactions.[16]

Second, the proposed ''General Continuance Standards'' section would state that FICC may require an EPN User to provide written assurances to FICC.[17] The proposal would authorize FICC to require written assurances from an EPN User if FICC has reason to believe that an EPN User may fail to comply with any of the EPN Rules.[18] Specifically, FICC could require an EPN User to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No.83682 (July 20, 2018), 83 FR 35513 (July 26, 2018) (SR–FICC–2018–005) (''Notice'').

[4] MBSD maintains two sets of rulebooks: The EPN Rules and the MSBD rules (''MBSD Rules''). Notice, 83 FR at 35513. The EPN Rules govern MBSD's EPN Service, while the MBSD Rules govern MBSD's clearance and settlement service. *Id.* The EPN Rules are available at *http://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_epnrules.pdf.* The MBSD Rules are available at *http://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf.*

[5] Notice, 83 FR at 33513. *See also* ''EPN Overview,'' *available at http://www.dtcc.com/clearing-services/ficc-mbsd/epn.*

[6] Notice, 83 FR at 33513.

[7] *Id.*

[8] *Id.*

[9] Notice, 83 FR at 35514.

[10] These membership standards are set forth in EPN Rules, Article III, Rule 1, Sections 2–3, *supra* note 4.

[11] Notice, 83 FR at 35514.

[12] *Id.*

[13] *Id.*

[14] As part of the proposal, FICC would include ''Reportable Event'' as a new defined term in the ''Definitions and General Provisions'' section of the EPN Rules. ''Reportable Event'' would be defined as ''an event that would effect a change in control of an EPN User or could have a substantial impact on such EPN User's business and/or financial condition, including, but not limited to: (a) Material organizational changes including mergers, acquisitions, changes in corporate form, name changes, changes in the ownership of an EPN User or its affiliates, and material changes in management; and (b) status as a defendant in litigation, which could reasonably impact the EPN User's financial condition or ability to conduct business.'' *Id.* Distinct from any other notification obligations, an EPN User would be required to submit to FICC written notice of any Reportable Event at least 90 calendar days prior to the effective date of such Reportable Event unless the EPN User demonstrates that (i) the EPN User could not have reasonably done so, and (ii) the EPN User provided written notice and oral notice to FICC as soon as possible. *Id.*

[15] Such requirements may include, but are not limited to, operational testing and related reporting requirements that FICC may imposed from time to time. Notice, 83 FR at 35514.

[16] *Id.*

[17] *Id.*

[18] *Id.*

provide written assurances of a credible nature that the EPN User shall not violate any of the EPN Rules.[19] These written assurances could take the specific format of, but would not be limited to such specific formats, notarized statements, affidavits, and/or officers' certificates.[20]

D. Proposed Clarifying Changes to the EPN Rules

FICC also proposes clarifying corrections to the EPN Rules. Specifically, the proposal would replace references to ''FICC'' with ''the Corporation'' in the section entitled ''FICC Mortgage-Backed Securities Division ('MBSD') EPN Schedule of Charges.'' [21] FICC states that it proposes this change because ''FICC'' is not a term that is defined in the EPN Rules.[22] In addition, FICC proposes to replace the reference to ''The Depository Trust Corporation'' with ''The Depository Trust & Clearing Corporation,'' which FICC states is an erroneous reference.[23] Additionally, FICC states that to accommodate the introduction of the new ''General Continuance Standards'' section, FICC proposes to change the numbering of the existing ''Confidentiality'' provision in EPN Rule 1 (Requirements Applicable to EPN Users) of Article III (EPN Users) from ''Sec. 8'' to ''Sec. 9.'' [24]

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [25] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission believes the proposal is consistent with the Act, specifically Section 17A(b)(3)(F) of the Act, Rule 17Ad–22(e)(18) under the Act, and Rule 17Ad–22(e)(23)(i) under the Act, as discussed below.[26]

A. Consistency With Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act [27] requires, *inter alia,* that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.

As described above, FICC proposes to make three changes to the EPN Rules. First, FICC proposes to add ongoing reporting obligations on EPN Users. These obligations would require an EPN User to notify FICC within two business days after the EPN User has, or could, fail to comply with EPN Service membership requirements. The Commission believes that codifying an affirmative duty to notify FICC would afford FICC a better opportunity to take timely action, once notified, to preserve the EPN Service's functionality, as FICC deemed necessary. By providing additional means to preserve the functionality of the EPN Service—a critical component of MBSD's settlement of mortgage-backed securities—the proposal is designed to promote the prompt and accurate clearance and settlement of such securities transactions.

Second, as described above, the proposal would identify circumstances when FICC could reassess an EPN User's access to the EPN Service. By including a ''Reportable Event,'' as defined by the proposal, as one of these circumstances, the proposal would allow FICC to review an EPN User's fitness after learning (i) of an EPN User's significant corporate event or (ii) an EPN User becoming the subject of an investigation or proceeding. The proposal also would allow FICC to require an EPN User to provide written assurances that the EPN User remains in compliance with the EPN Rules. The Commission believes that these proposed changes would codify existing practices that help ensure that FICC can, on its own accord, determine if an EPN User's access to the EPN Service should be reassessed due to possible threats to the EPN Service's functionality. By enabling FICC to better protect the EPN Service, which is essential for MBSD's settlement of mortgage-backed securities, the proposal is designed to promote the prompt and accurate clearance and settlement of such securities transactions.

Third, as described above, FICC proposes clarifying changes to the EPN Rules. The proposed corrections to references in the ''EPN Schedule of Charges'' and ''Requirements Applicable to EPN Users'' sections of the EPN Rules would help clarify the EPN Rules for EPN Users. Similarly, FICC's renumbering of the Rules to accommodate the proposed ''General Continuance Standards'' also would help maintain the clarity of the EPN Rules for EPN Users. By proposing changes to the EPN Rules to improve clarity, the Commission believes that the proposed changes are designed to help EPN Users better understand and remain compliant with the EPN Rules; thus promoting the prompt and accurate clearance and settlement of securities transactions.

As each of the aforementioned changes is designed to promote the prompt and accurate clearance and settlement of securities transactions, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F).

B. Consistency With Rule 17Ad–22(e)(18)

Rule 17Ad–22(e)(18) under the Act requires, *inter alia,* a covered clearing agency [28] to establish, implement, maintain and enforce written policies and procedures reasonably designed to monitor compliance with participation requirements on an ongoing basis.[29]

As described above, FICC proposes to amend the EPN Rules to (1) include an EPN User's ongoing reporting obligations, and (2) define circumstances under which FICC may determine an EPN User's compliance with the EPN Rules. The Commission believes that these changes would help ensure that FICC is promptly made aware of the potential need to reassess an EPN User's access to the EPN Service due to the EPN User's possible violation of the EPN Rules. As such, the proposed changes are designed to give FICC the ability to timely monitor an EPN User's compliance with the EPN Rules. Therefore, the Commission finds that proposed changes are consistent with Rule 17Ad–22(e)(18).

C. Consistency With Rule 17Ad–22(e)(23)

Rule 17Ad–22(e)(23) under the Act requires, *inter alia,* a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for publicly disclosing all

[19] FICC has discretion to request that the EPN User's written assurance references specific timeframes and details. *Id.*

[20] *Id.*

[21] Notice, 83 FR at 35513.

[22] *Id.*

[23] *Id.*

[24] Notice, 83 FR at 35514.

[25] 15 U.S.C. 78s(b)(2)(C).

[26] 15 U.S.C. 78q–1(b)(3)(F); 17 CFR 240.17Ad–22(20).

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] A ''covered clearing agency'' means, among other things, a clearing agency registered with the Commission under Section 17A of the Exchange Act (15 U.S.C. 78q–1 *et seq.*) that is designated systemically important by the Financial Stability Oversight Counsel (''FSOC'') pursuant to the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5461 *et seq.*). *See* 17 CFR 240.17Ad–22(a)(5)–(6). On July 18, 2012, FSOC designated FICC as systemically important. U.S. Department of the Treasury, ''FSOC Makes First Designations in Effort to Protect Against Future Financial Crises,'' *available at https://www.treasury.gov/press-center/press-releases/Pages/tg1645.asp.* Therefore, FICC is a covered clearing agency.

[29] 17 CFR 240.17Ad–22(e)(18).

relevant rules and material procedures.[30]

As described above, the proposed rule changes would amend the EPN Rules to reflect existing FICC practices. Specifically, the proposed changes would (1) include an EPN User's ongoing reporting obligations, (2) define circumstances under which FICC may determine an EPN User's compliance with the EPN Rules, and (3) make corrections to the EPN Rules for clarity. As such, the Commission believes these proposed changes to codify and correct FICC's existing practices in the EPN Rules would assist in publicly disclosing all relevant and material procedures regarding the EPN Service.

Therefore, the Commission finds that the proposal is designed to provide for publicly disclosing all relevant rules and material procedures, consistent Rule 17Ad–22(e)(23)(i) under the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act [31] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–FICC–2018–005 be, and hereby is, *approved.*[32]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–19872 Filed 9–12–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15680 and #15681; Montana Disaster Number MT–00116]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Montana

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 Montana (FEMA–4388–DR), dated 08/30/2018.

Incident: Flooding.

Incident Period: 04/12/2018 through 05/06/2018.

DATES: Issued on 08/30/2018.

Physical Loan Application Deadline Date: 10/29/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 05/30/2019.

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 08/30/2018, 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: Blaine, Hill, Liberty, Pondera, Toole, Valley.

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 156806 and for economic injury is 156810.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–19937 Filed 9–12–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15684 and #15685; Havasupai Tribe Disaster Number AZ–00056]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Havasupai Tribe

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 Havasupai Tribe (FEMA—4389—DR), dated 08/31/2018.

Incident: Severe Storms, Flooding, and Landslides.

Incident Period: 07/11/2018 through 07/12/2018.

DATES: Issued on 08/31/2018.

Physical Loan Application Deadline Date: 10/30/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 05/31/2019.

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 08/31/2018, 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 Area: Havasupai Tribe

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 156846 and for economic injury is 156850.

[30] 17 CFR 240.17Ad–22(e)(23)(i).

[31] 15 U.S.C. 78q–1.

[32] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–19935 Filed 9–12–18; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36215]

West Memphis Base Railroad L.L.C.—Lease, Operation, and Future Purchase Exemption—City of West Memphis, Ark.

West Memphis Base Railroad, L.L.C. (WMBR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from the City of West Memphis, Ark. (the City) and to operate approximately 2.25 miles of rail line, extending from milepost 353.281 to milepost 355.539 in West Memphis, Crittenden County, Ark. (the Line), pursuant to an agreement entered into with the City.[1] In addition, the agreement gives WMBR an option to purchase the Line, which WMBR anticipates that it will be in a position to exercise in October of this year.

WMBR states that the proposed transaction does not involve, and the agreement between WMBR and the City does not include, any provision or agreement that would limit future interchange with a third-party connecting carrier.

WMBR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and that the projected annual revenues will not exceed $5 million.

The transaction (including the option to purchase) may be consummated on or after September 27, 2018, the effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 20, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36215, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to WMBR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at *www.stb.gov*.

Decided: September 10, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2018–19944 Filed 9–12–18; 8:45 am]

BILLING CODE 4915–01–P

[1] WMBR and the City have agreed for WMBR to lease the Line for an initial term expiring at the later occurrence of: (1) Completion of certain publicly funded improvements to the Line, or (2) December 31, 2020.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2008–0070]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that by letter dated September 7, 2018, Harsco Track Technologies (HTT) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 214, subpart D. FRA assigned the petition Docket Number FRA–2008–0070.

HTT seeks an extension of the existing relief from 49 CFR 214.505, *Required environmental control and protection systems for new on-track roadway maintenance machine with enclosed cabs,* to permit continued use of a remote controlled on-track roadway maintenance machine without the requirement of an enclosed cab, operable heating and air conditioning system, and positive pressurized ventilation system. In support of its petition, HTT states the drone track tamper has been in operation since 2008 and no injuries or safety issues have been reported to HTT.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 15, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dotransportation.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Safety, Chief Safety Officer.

[FR Doc. 2018–19918 Filed 9–12–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2018 Competitive Funding Opportunity: Access & Mobility Partnership Grants

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces with this notice the Access & Mobility Partnership Grants, which are two opportunities to apply for funding under two competitive grant programs. First, FTA makes available $3,903,715 in funding for the Innovative Coordinated Access and Mobility Pilot Program (ICAM Pilot Program; Catalog of Federal Domestic Assistance (CFDA) number: 20.513). As required by Federal transit law, funds will be awarded competitively to finance innovative capital projects for the transportation disadvantaged that will improve the coordination of transportation services and non-emergency medical transportation services.

Second, FTA makes available $2,434,767 in funding for a Human Services Coordination Research (HSCR) Program with funds available under the Public Transportation Innovation Program (Catalog of Federal Domestic Assistance (CFDA) number: 20.514). Research activities awarded under this competitive program will support the implementation of innovative strategies in the coordination of human services transportation to provide more effective and efficient public transportation services to seniors, individuals with disabilities, and low-income individuals. Proposed research projects should address gaps identified in the locally developed Coordinated Public Transit-Human Services Transportation Plan. The HSCR funds will finance operating and capital project expenditures to develop and deploy projects that improve transportation services for targeted populations as noted above through methods that effectively and efficiently coordinate human services transportation.

The Access and Mobility Partnership Grants are two separate and distinct funding opportunities that seek to improve access to public transportation through building partnerships among health, transportation, and other service providers.

DATES: Applicants must submit completed proposals for each funding opportunity through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern Daylight Time November 13, 2018. Prospective applicants should register as soon as possible on the *GRANTS.GOV* website to ensure they can complete the application process before the submission deadline. Application instructions are available on FTA's website at *http://transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV.* The *GRANTS.GOV* funding opportunity ID for the ICAM Pilot Program is FTA–2018–002–ICAM. The *GRANTS.GOV* funding opportunity ID for the HSCR Program is FTA–2018–006–HSCR. The FTA will not accept mail and fax submissions.

FOR FURTHER INFORMATION CONTACT: Kelly Tyler, FTA Office of Program Management; Phone: (202) 366–3102; Email: *Kelly.Tyler@dot.gov;* Fax: (202) 366–3475.

SUPPLEMENTARY INFORMATION:

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A. Program Description

The Access and Mobility Partnership Grants are two separate and distinct funding opportunities that seek to improve access to public transportation through building partnerships among health, transportation, and other service providers. Further, these funding opportunities seek to fund projects that enhance mobility options through increased coordination efforts.

1. Innovative Coordinated Access and Mobility Pilot Program

Section 3006(b) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94, Dec. 4, 2015) authorizes FTA to award grants for innovative coordinated access and mobility projects for the transportation disadvantaged population that improve the coordination of transportation services and non-emergency medical transportation services. The goals of the ICAM Pilot Program are to: (1) Increase access to care; (2) improve health outcomes; and (3) reduce healthcare costs.

Throughout the country, communities are experimenting with ways to overcome barriers to these essential services by leveraging partnerships across transportation, health, and wellness providers. The ICAM Pilot Program grants will support capital projects that address the challenges the transportation disadvantaged face when accessing healthcare, such as: Getting to the doctor or returning home from a hospital procedure, or going to rehabilitation, behavioral health services, the pharmacy, or free health screening services.

Through the ICAM Pilot Program, FTA will fund projects that enhance access to healthcare by utilizing mobility management, health and transportation provider partnerships, technology, or other actions that drive change. The ICAM grants will operate as pilots for up to eighteen (18) months. Within the first year, projects must be able to demonstrate impacts related to the goals of ICAM.

To support the goals of the ICAM Pilot Program, recipients will:

- Develop replicable, innovative, and sustainable solutions to healthcare access challenges;
- foster local partnerships between health, transportation, home and community-based services, and other sectors to collaboratively develop and support solutions that increase healthcare access; and
- demonstrate how transportation solutions improve access to healthcare and health outcomes and reduce costs to the healthcare and transportation sectors.

Successful projects will work collaboratively and leverage partnerships among Federal agencies of the Coordinating Council on Access and Mobility (CCAM), including the Department of Health and Human Services' operating divisions such as the Administration for Community Living, the Health Resources and Services Administration, and the Centers for Medicare and Medicaid Services. Partnerships that cross health and transportation sectors facilitate better health for communities by increasing access to health/wellness services.

The FTA will award grants to applicants who are ready to implement public transportation healthcare access solutions and who will build upon previous planning activities and private or federally funded research activities.

2. Human Services Coordination Research Program

The HSCR program is funded through the Public Transportation Innovation Program, 49 U.S.C. 5312(b), and will build upon identified gaps in services or planning activities for the improvement of services, as outlined in a locally developed Coordinated Public Transit-Human Services Transportation Plan. Proposals should identify innovative

solutions to provide more effective and efficient public transportation services to seniors, individuals with disabilities, and low-income individuals, utilizing coordination methods and concepts such as mobility management improvements, travel management systems, and operating efficiencies. The FTA will award capital or operating assistance to implement a coordinated public transportation project that offers innovative solutions to improve local coordination or access to coordinated transportation services. Additionally, this program seeks to support transit agencies, human service agencies, and local communities as they:

- Integrate new mobility tools like smart phone apps, demand-responsive bus and van services;
- aim to improve multi-modal connectivity for seniors, people with disabilities, and low-income individuals;
- address accessibility issues through innovative technologies and practices;
- improve the quality of the traveler experience and the transit product; and
- identify new mobility-enhancing practices and technologies.

The HSCR program is an opportunity for communities to put into practice innovative ideas, practices, and approaches to address the overall coordination goals of the CCAM at the local level. The HSCR grant awardees will have up to eighteen (18) months from the time of the award to complete the project. Within the first year, projects must be able to demonstrate impacts related to the expected outcome as described in the Coordinated Public Transit Human Services Transportation Plan.

B. Federal Award Information

1. Innovative Coordinated Access and Mobility Pilot Program

Section 3006(b) of the FAST Act authorizes $3,250,000 in FY 2018 for grants under the ICAM Pilot Program. The $3,903,715 of funds that FTA is making available includes the FY 2018 appropriated amount of $3,250,000, combined with $187,822 in FY 2016 funds and $465,893 in FY 2017 funds that remain available.

2. Human Services Coordination Research Program

In FY 2018, FTA makes available $2,434,767 under the Public Transportation Innovation Program, 49 U.S.C. 5312(b), to finance capital and/or operating projects that develop and deploy an enhancement or improvement to the coordination of human services transportation. The total amount of funds available includes $2,148,053 in remaining balances from FY 2015 and $286,714 from FY 2016.

For both funding opportunities, ICAM and HSCR, the FTA will grant pre-award authority starting on the date of project award announcements for the awards. Funds are available only for projects that have not incurred costs prior to the announcement of project selections. The FTA may supplement the total currently available with future appropriations.

C. Eligibility Information

1. Innovative Coordinated Access and Mobility Pilot Program

i. Eligible Applicants

Eligible applicants for awards are recipients and subrecipients of the Enhanced Mobility for Seniors and Individuals with Disabilities Program, which are defined under 49 U.S.C. 5310: designated recipients, States and local governmental authorities, private nonprofit organizations, and operators of public transportation. Proposals may contain projects to be implemented by the recipient or its subrecipients. Eligible subrecipients include public agencies, private nonprofit organizations, and private providers engaged in public transportation. If a single project proposal involves multiple public transportation providers, such as an agency that acquires vehicles that another agency will operate, the proposal must include a detailed statement regarding the role of each public transportation provider in the implementation of the project.

Applicants may serve as the lead agency of a local consortium that includes stakeholders from the transportation, healthcare, human services, or other sectors, including private and nonprofit entities engaged in the coordination of nonemergency medical transportation services for people who are transportation disadvantaged. Members of this consortium are eligible as subrecipients. The applicant must also demonstrate that the proposed project was planned through an inclusive process with the involvement of the transportation, healthcare, and human services industries. Applicants must submit an implementation plan and schedule as part of the proposal.

ii. Cost Sharing or Matching

The maximum Federal share of project costs under the ICAM Pilot Program is 80 percent. The applicant provides a local share of at least 20 percent of the net project cost and must document the source of the local match in the grant application.

Eligible sources of local match include the following:

- Cash from non-Government sources other than revenues from providing public transportation services;
- revenues derived from the sale of advertising and concessions;
- amounts received under a service agreement with a State or local social service agency or private social service organization;
- revenues generated from value capture financing mechanisms;
- funds from an undistributed cash surplus;
- replacement or depreciation cash fund or reserve; or
- new capital.

In addition, the applicant may use transportation development credits or documentation of in-kind match for local match in the application.

iii. Eligible Projects

Under section 3006(b) of the FAST Act eligible projects are capital projects, as defined in 49 U.S.C. 5302(3). FTA may make grants to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation services including: The deployment of coordination technology; projects that create or increase access to community one-call/one-click centers; and other innovative projects. The FTA's goal for these pilot demonstration grants is to identify and test promising, innovative, coordinated mobility strategies for healthcare access solutions that other communities can replicate. Only one project may be included in each application.

2. Human Services Coordination Research Program

i. Eligible Applicants

Eligible applicants for awards are State and local governmental entities, providers of public transportation, private or non-profit organizations. Proposals may contain projects the recipient or its subrecipients will implement. Eligible subrecipients include public agencies, private nonprofit organizations, and private providers engaged in public transportation.

ii. Cost Sharing or Matching

For projects funded under the HSCR program, the maximum Federal share of capital project costs is 80 percent and the maximum Federal share of operating

project costs is 50 percent. The applicant must document the source(s) of the local match in the grant application.

Eligible local-match sources include the following:

- Cash from non-Government sources other than revenues from providing public transportation services;
- revenues derived from the sale of advertising and concessions;
- revenues generated from value capture financing mechanisms;
- funds from an undistributed cash surplus;
- replacement or depreciation cash fund or reserve;
- new capital; or
- in-kind contributions.

In addition, the applicant may use transportation development credits for local match.

iii. Eligible Projects

Eligible projects under this program are implementation-ready capital and/or operating projects that enhance public transportation coordination and access through innovations that:

- Increase systems coordination of transportation services;
- use mobility management and improvements and/or travel management systems;
- provide more effective and efficient public transportation service, including services to seniors, individuals with disabilities, and low-income individuals; or
- implement data and communication system advancements.

Projects eligible for the HSCR funds will link directly to an adopted Coordinated Public Transit-Human Services Transportation Plan and the implementation strategy for an integrated coordinated transportation system. Only one project may be included in each application.

D. Application and Submission Information

1. Address To Request Application

Applications must be submitted through *GRANTS.GOV*. Applicants can find general information for submitting applications through *GRANTS.GOV* at *https://www.transit.dot.gov/funding/grants/applying/applying-fta-funding,* along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms:

- The SF–424 Mandatory Form (downloadable from *GRANTS.GOV*), and
- the appropriate supplemental form for the FY 2018 ICAM Pilot Program or the FY 2018 HSCR Program (downloadable from *GRANTS.GOV* or at *https://www.transit.dot.gov/funding/grants/enhanced-mobility-seniors-individuals-disabilities-section-5310*).

Applicants may also attach additional supporting information. Failure to submit the information as requested can delay or prevent review of the application.

2. Content and Form of Application Submission

i. Proposal Submission

A complete proposals submission consists of at least two forms:

- The SF–424 Mandatory Form, and
- the supplemental form for the FY 2018 ICAM Pilot Program or the FY 2018 HSCR Program.

The application must include responses to all sections of the SF–424 mandatory form and the supplemental form unless a section is indicated as optional. The FTA will use the information on the supplemental form to determine applicant and project eligibility for the program and to evaluate the proposal against the selection criteria described in part E of this notice. The FTA will accept only one supplemental form per SF–424 submission. The FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If States or other applicants choose to submit separate proposals for individual consideration by FTA, they must submit each proposal with a separate SF–424 and supplemental form.

Applicants may attach additional supporting information to the SF–424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as proposer name, Federal amount requested, local match amount, description of areas served, etc., may be requested in varying degrees of detail on both the SF–424 form and supplemental form. Proposers must fill in all fields unless stated otherwise on the forms. If applicants copy information into the supplemental form from another source, they should verify that the supplemental form has fully captured pasted text and that it has not truncated the text due to character limits built into the form. Proposers should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms. Applicants should also ensure that the Federal and local amounts specified are consistent.

ii. Application Content

The SF–424 Mandatory Form and the supplemental form will prompt applicants for the required information, including:

a. Applicant Name
b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number
c. Key contact information (including contact name, address, email address, and phone)
d. Congressional district(s) where project will take place
e. Project Information (including title, an executive summary, and type)
f. A detailed description of the need for the project
g. A detailed description of how the project will support the ICAM Pilot or the HSCR Program objectives
h. Evidence that the project is consistent with local and regional planning documents and evidence of a locally developed and adopted Coordinated Public Transit-Human Services Transportation Plan (where applicable)
i. Evidence that the applicant can provide the local cost share
j. A description of the technical, legal, and financial capacity of the applicant
k. A detailed project budget (up to 18 months or less)
l. An explanation of the scalability of the project
m. Details on the local matching funds
n. A detailed project timeline

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant: (1) Is an individual; (2) is excepted from the requirements under 2 CFR 25.110(b) or (c); or (3) has an exception approved by FTA under 2 CFR 25.110(d). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied

with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. All applicants must provide a unique entity identifier provided by SAM. Registration in SAM may take as little as 3–5 business days, but there can be unexpected steps or delays. For example, the applicant may need to obtain an Employer Identification Number. FTA recommends allowing ample time, up to several weeks, to complete all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

The FTA will provide further instructions on registration through an introductory applicant training session. Dates and times for the training session will be posted on FTA's website at *https://www.transit.dot.gov/funding/grants/enhanced-mobility-seniors-individuals-disabilities-section-5310.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern on November 13, 2018. Mail and fax submissions will not be accepted.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to correct any problems that may have caused either *GRANTS.GOV* or FTA systems to reject the submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control.

Deadlines will not be extended due to scheduled website maintenance. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV:* (1) Confirmation of successful transmission to *GRANTS.GOV;* and (2) confirmation of successful validation by *GRANTS.GOV.* If the applicant does not receive confirmation of successful validation or receives a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, applicants must include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to update their registration before submitting an application. Registration in SAM is renewed annually and persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds under the ICAM Pilot Program may be used for capital expenditures only. Funds under the HSCR Program may be used for operating or capital expenditures that are tied to the locally developed Coordinated Public Transit-Human Services Transportation Plan.

6. Other Submission Requirements

The FTA encourages applicants to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how a reduced reward would affect the project budget. The FTA may award a lesser amount whether the applicant provides a scalable option.

E. Application Review Information

1. Project Evaluation Criteria

i. Innovative Coordinated Access and Mobility Pilot Program

Each application submitted for the ICAM Pilot Program must include: (1) A detailed description of the project; (2) an identification of all project partners (if any) and their specific role in the eligible project; (3) specific performance measures the project will use to quantify actual outcomes against expected outcomes; and (4) a description of how the project will:

- Improve local coordination or access to coordinated transportation services;
- reduce duplication of service, if applicable; and
- provide innovative solutions in the State or community.

The FTA will evaluate proposals submitted according to the following criteria: (a) Demonstration of need; (b) demonstration of benefits; (c) planning and partnerships; (d) local financial commitment; (e) project readiness; and (f) technical, legal, and financial capacity. Each applicant is encouraged to demonstrate the responsiveness of a project to all criteria with the most relevant information that the applicant can provide, regardless of whether such information has been specifically requested or identified in this notice.

a. Demonstration of Need

The FTA will evaluate proposals based on how the proposed project will address the need or challenges to improving coordination of transportation services and non-emergency medical transportation services. The FTA will consider both the scope of the overall need or challenge, and the size of the specific segment of the population served by the proposed project.

b. Demonstration of Benefits

The FTA will evaluate proposals on the benefits provided by the proposed project. Benefits will be tied to the ICAM program's goals of increased access to care, improved health outcomes, and reduced healthcare costs. Benefits identified in the proposals will be evaluated at both the individual level, and that of the local health and transportation providers. Proposals will be judged on the extent to which the proposed project demonstrates a benefit to the transportation need or challenge to mobility and healthcare access demonstrated above. Projects will be evaluated on the ability of the proposed project to yield data demonstrating impacts on the goals of FTA's ICAM Program: To increase access to care; improve health outcomes; and reduce healthcare costs. Proposals must show that the applicant will be able to provide impact data during and after the pilot project. FTA will conduct an independent evaluation of the demonstration grant. At various points in the deployment process and at the end of the pilot project, the recipient will be asked by FTA, or its designee, to provide performance measures required to conduct this evaluation. FTA requires each applicant to submit the performance data on a quarterly basis. This data will be used by FTA to produce the required Annual Report to Congress that contains detailed description of the activities carried out under the pilot program, and an evaluation of the program, including an

evaluation of the performance measures described.

c. Planning and Partnerships

Applicants must describe the eligible project and outline project partners and their specific role in the project—including private and nonprofit entities involved in the coordination of nonemergency medical transportation services for the transportation disadvantaged. Applicants must include a description of how the eligible project would: (1) Improve local coordination or access to coordinated transportation service; (2) reduce duplication of service, if applicable; and (3) provide innovative solutions in the State and/or community. Applicants should provide evidence of strong commitment from key partners, including letters of support from relevant local stakeholders. An eligible recipient may submit an application in partnership with other entities that intend to participate in the implementation of the project. Any changes to the proposed partnerships will require FTA's advance approval and must be consistent with the scope of the approved project.

d. Local Financial Commitment

Applicants must identify the source of the local share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. The FTA will consider the availability of the local share as evidence of local financial commitment to the project. In addition, an applicant may propose a local share that is greater than the minimum requirement or provide documentation of previous local investment in the project as evidence of local financial commitment.

e. Project Readiness

The FTA will evaluate the project on the proposed schedule and the applicant's ability to implement it. Applicants should indicate the short-term, mid-range, and long-term goals for the project. Applicants also must describe how the project will help the transportation disadvantaged and improve the coordination of transportation services and non-emergency medical transportation services, such as the deployment of coordination technology, projects that create or increase access to community One-Call/One-Click Centers, mobility management, etc. Proposals must provide specific performance measures the eligible project will use to quantify actual outcomes against expected outcomes. The FTA will evaluate the project on the extent to which it was developed inclusively, incorporating meaningful involvement from key stakeholders including consumer representatives of the target groups and providers from the healthcare, transportation, and human services sectors, among others. The applicant must show significant, ongoing involvement of the project's target population.

f. Technical, Legal and Financial Capacity

The FTA will evaluate proposals on the capacity of the lead agency and any partners to successfully execute the pilot effort. The applicant should have no outstanding legal, technical, or financial issues that would make this a high-risk project. The FTA will evaluate each proposal (including the business plan, financial projections, and other relevant data) for feasibility and longer-term sustainability of both the pilot project as well as the proposed project at full deployment. It is FTA's intent to select projects with a high likelihood of long-term success and sustainability.

ii. Human Services Coordination Research Program

Each application for the HSCR Program must include a statement of purpose detailing: (1) The need being addressed; (2) the short- and long-term goals of the project, including opportunities for future innovation and development and benefits to riders of public transportation; (3) how the project will improve public transportation service for seniors, individuals with disabilities, and low-income individuals; and (4) the short- and long-term funding requirements to complete the project and any future objectives of the project.

FTA will evaluate proposals submitted according to the following criteria: (a) Demonstration of need; (b) demonstration of benefits; (c) coordination, planning and partnerships; (d) local financial commitment; (e) project readiness; and (f) technical, legal and financial capacity. The FTA encourages each applicant to demonstrate how a project supports all criteria with the most relevant information the applicant can provide, regardless of whether such information has been specifically requested or identified in this notice.

a. Demonstration of Need

The FTA will evaluate proposals based on how the proposed project will address the need for or challenges to improving coordination of transportation services as outlined in the implementation strategy of a locally developed, Coordinated Public Transit-Human Services Transportation Plan. The FTA will consider both the scope of the overall need or challenge, and the size of the specific segment of the population served by the proposed project.

b. Demonstration of Benefits

The FTA will evaluate proposals on the benefits provided by the proposed project. The FTA will judge proposals based on how much the proposed project will benefit the implementation of the coordination activity and enhance transportation services for the targeted population. The HSCR Program provides an opportunity for communities to put into practice new and innovative ideas, practices, and approaches that address the overall coordination goals of the CCAM at the local level. The FTA will evaluate how the project supports the following goals:

1. Implementing new and innovative strategies to increase human services transportation through interagency cooperation;
2. improving access to cost-effective transportation services; and
3. encouraging enhanced access to transportation resources.

Proposals must show that the applicant will be able to provide impact data during and at the conclusion of the project. FTA will conduct an independent evaluation of the demonstration grant. At various points in the deployment process and at the end of the pilot project, the recipient will be asked by FTA, or its designee, to provide performance measures required to conduct this evaluation. FTA requires each applicant to submit the performance data on a quarterly basis. This data will be used by FTA to produce the required Annual Report to Congress that contains detailed description of the activities carried out under the program, and an evaluation of the program, including an evaluation of the performance measures described.

c. Demonstration of Coordination, Planning, and Partnerships

Applicants must describe the eligible project and outline project partners and their specific role in the project. This includes private and nonprofit entities involved in the coordination of human services transportation services for the transportation disadvantaged. Applicants should describe how the eligible project would provide more effective and efficient public transportation service for:

1. Seniors;
2. individuals with disabilities; and
3. low-income individuals.

Applicants must provide evidence of strong commitment from key partners, including letters of support from participating human services agencies and all other relevant local stakeholders. An eligible recipient may submit an application in partnership with other entities that intend to participate in the implementation of the project. Any changes to the proposed partnerships will require FTA's advance approval and must be consistent with the scope of the approved project.

d. Demonstration of Coordination, Planning, and Partnerships

Applicants must identify the source of the local share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. The FTA will consider the availability of the local share as evidence of local financial commitment to the project. In addition, an applicant may propose a local share that is greater than the minimum requirement or provide documentation of previous local investment in the project as evidence of local financial commitment.

e. Project Readiness

The FTA will evaluate the proposed schedule and the applicant's ability to implement it. Applicants should indicate the short-term, mid-range, and long-term goals for the project. Applicants should also describe how the project will help the targeted populations and improve the overall coordination of transportation services such as non-emergency medical transportation services. This includes the deployment of coordination technology, capital and operating efficiencies, mobility management, etc. Proposals should provide specific performance measures that the applicant will use to quantify actual outcomes against expected outcomes. The FTA will evaluate the project proposal based on how much the project is directly tied to a locally developed Coordinated Public Transit-Human Services Transportation Plan. The applicant must show significant, ongoing involvement of the project's target population.

f. Technical, Legal and Financial Capacity

The FTA will evaluate the capacity of the lead agency and any partners to successfully execute the research effort. There should be no outstanding legal, technical, or financial issues with the applicant that would make this a high-risk project. The FTA will evaluate each proposal (including the business plan, financial projections, and other relevant data) for feasibility and longer-term sustainability. It is FTA's intent to select projects with a high likelihood of long-term success, sustainability, and ability to be replicated in other communities.

2. Review and Selection Process

In addition to other FTA staff that may review the proposals, a technical evaluation committee will evaluate proposals based on the published evaluation criteria. After applying the above preferences, the FTA Administrator will consider the following key U.S. Department of Transportation objectives:

- Supporting economic vitality at the national and regional level;
- Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;
- Accounting for the life-cycle costs of the project to promote the state of good repair;
- Using innovative approaches to improve safety and expedite project delivery; and
- Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems (FAPIIS) accessible through SAM. An applicant may review and comment on information about itself that a Federal awarding agency previously entered. The FTA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.205, Federal Awarding Agency Review of Risk Posed by Applicants. FTA may consider geographic diversity, and/or the applicant's receipt of other discretionary awards in determining the allocation of program funds.

F. Federal Award Administration

1. Federal Award Notices

The FTA Administrator will announce the final project selections on the FTA website. Project recipients should contact their FTA Regional Office for additional information regarding allocations for projects under each program.

At the time project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement.

2. Award Administration

There is no minimum or maximum grant award amount; however, FTA intends to fund as many meritorious projects as possible. The FTA will only consider proposals from eligible recipients for eligible activities. Due to funding limitations, projects selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

3. Administrative and National Policy Requirements

i. Pre-Award Authority

The FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. The FTA does not provide pre-award authority for competitive funds until projects are selected, and there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the FY 2018 Apportionments Notice published on July 16, 2018, at *https://www.gpo.gov/fdsys/pkg/FR-2018-07-16/pdf/2018-14989.pdf.*

ii. Grant Requirements

Selected applicants will submit a grant application through FTA's electronic grant management system and adhere to the customary FTA grant requirements. All competitive grants, regardless of award amount, will be subject to the congressional notification and release process. The FTA emphasizes that third-party procurement applies to all funding awards, as described in FTA Circular 4220.1F, ''Third Party Contracting Guidance.'' However, FTA may approve applications that include a specifically identified partnering organization(s) (2 CFR 200.302(f)). When included, the application, budget, and budget narrative should provide a clear understanding of how the selection of these organizations is critical for the project and give sufficient detail about the costs involved.

iii. Planning

The FTA encourages applicants to engage the appropriate State Departments of Transportation, Regional Transportation Planning Organizations, or Metropolitan Planning Organizations in areas to be served by the project funds available under these programs.

Additionally, project proposals should be directly tied to the locally developed Coordinated Public Transit-Human Services Transportation Plan.

iv. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

v. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system. An independent evaluation of the pilot program or research grant may occur at various points in the deployment process and at the end of the pilot project. In addition, FTA is responsible for producing an Annual Report to Congress that compiles evaluations of selected projects, including an evaluation of the performance measures identified by the applicants. All applicants must develop an evaluation plan to measure the success or failure of their projects and to describe any plans for broad-based implementation of successful projects. The FTA may request data and reports to support the independent evaluation and annual report.

G. Federal Awarding Agency Contact

For questions about applying for each of the programs outlined in this notice, please contact the Program Manager, Kelly Tyler, at Federal Transit Administration, phone: (202) 366–3102, fax: (202) 366–3475, or email, *Kelly.Tyler@dot.gov.* A TDD is available at 1–800–877–8339 (TDDFIRS). Additionally, you may visit FTA's website for this program at *https://www.transit.dot.gov/funding/grants/enhanced-mobility-seniors-individuals-disabilities-section-5310.* To ensure that applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA directly with questions, rather than through intermediaries or third parties. FTA staff may also conduct briefings on the FY 2018 competitive grants selection and award process upon request.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2018–19897 Filed 9–12–18; 8:45 am]

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Part II

Department of Defense

32 CFR Part 310
Department of Defense Privacy Program; Proposed Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DOD–2018–OS–0008]

RIN 0790–AJ20

Department of Defense Privacy Program

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (DoD) proposes to revise its Privacy regulation to implement the Privacy Act of 1974, as amended. The rule will also implement changes which conform to the requirements of the Office of Management and Budget Circular A–108, December 23, 2016. This part establishes and promotes uniformity in the DoD Privacy Program, creating a single privacy rule for the Department, while incorporating other administrative changes. It would take precedence over all DoD component publications that supplement and implement the DoD Privacy program. DoD plans to remove individual component rulemakings in this area as subsequent actions.

DATES: Comments must be received by November 13, 2018.

ADDRESSES: You may submit comments identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Suite 08D09, Attn: Mailbox 24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Cindy Allard, (703) 571–0086.

SUPPLEMENTARY INFORMATION: The DoD is proposing to revise 32 CFR part 310 to implement section 552a of Title 5, United States Code, thus establishing procedures for access as well as other privacy protections. It would supersede the current parts 310 through 329 and parts 505, 701, and 806b to promote uniformity in the DoD Privacy program and streamline the existing rules. The existing system of records exemption rules that have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in parts 310 through 329 and parts 505, 701, and 806b remain effective; however for streamlining and ease of use for the reader we are moving the existing exemption rules from parts 311 through 329 and parts 505, 701, and 806b into part 310 without amendment. The DoD Component Privacy rules will not be repealed until this proposed rule is finalized.

Authority: The Privacy Act, 5 U.S.C. 552a, requires each agency that maintains a system of records to promulgate rules, pursuant to notice and public comment according to 5 U.S.C. 552a(f) ''Agency Rules.''

This rule would also implement changes to conform to the requirements of the Office of Management and Budget Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016, which can be found at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A108/omb_circular_a-108.pdf* and Office of Management and Budget Circular A–130, ''Managing Information as a Strategic Resource,'' dated July 28, 2016 at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A130/a130revised.pdf.*

This rule promotes uniformity in the DoD Privacy Program across the entire Department and provides notice of DoD's privacy procedures as well as other privacy protections to the public with no increase in costs on the public.

Expected Cost Savings:

DoD currently has 21 separate component-level privacy rules. After this rule is finalized, DoD will repeal all component-level privacy rules. This rulemaking will reduce costs and time for the public by consolidating the requirements for requests for access to and amendment of DoD information.

Privacy requesters are a diverse community, including lawyers, industry professionals, reporters, and members of the public. Costs for these requestors can include the time required to research the current Privacy rule for each component and the time and preparation required to submit a request/appeal. DoD Privacy subject matter experts estimate that 40% of Privacy requests to DoD may involve consultation of the Code of Federal Regulations and the department's several privacy regulations. DoD estimates the consolidation to one privacy regulation will save those referring to the CFR for Privacy guidance approximately 30 minutes of research, review, and compliance time.

For purposes of estimating opportunity costs, DoD subject matter experts deemed it reasonable to use the average of a lawyer's/judicial law clerk's mean hourly wage ($66.44/hour), as informed by the Bureau of Labor and Statistics, and the 2016 federal minimum wage ($9/hour) to approximate an hourly wage for an average requester. That rate is $37.72/hour.

Through this consolidation, DoD expects to save the requester community at least $63,686 annually, as reflected in the chart below using FY 2016 data (annualized costs over perpetuity at a 7 percent discount rate is −$63,686; present value costs is −$909,800). The cost savings anticipated by the repeal of the DoD Component rules are accounted for in this rulemaking and will not be separately noted in the individual repeal actions.

Rule	Component	# 2016 Access & amdmt requests		40% of privacy requests (%)		Time per request (minutes)		Hourly wage of requester		Projected cost savings to public
311	OSD/JS	2,530	×	40	×	30	×	$37.72	=	$19,086.32
312	DoDIG	196	×	40	×	30	×	37.72	=	1,478.62
313	CJCS/JS	0	×	40	×	30	×	37.72	=	0.00
314	DARPA	0	×	40	×	30	×	37.72	=	0.00
315	USUHS	0	×	40	×	30	×	37.72	=	0.00
316	DISA	65	×	40	×	30	×	37.72	=	490.36
317	DCAA	10	×	40	×	30	×	37.72	=	75.44
318	DTRA	9	×	40	×	30	×	37.72	=	67.90
319	DIA	99	×	40	×	30	×	37.72	=	746.86
320	NGA	11	×	40	×	30	×	37.72	=	82.98

Rule	Component	# 2016 Access & amdmt requests		40% of privacy requests (%)		Time per request (minutes)		Hourly wage of requester		Projected cost savings to public
321	DSS	34	×	40	×	30	×	37.72	=	256.50
322	NSA/CSA	206	×	40	×	30	×	37.72	=	1,554.06
323	DLA	431	×	40	×	30	×	37.72	=	3,251.46
324	DFAS	261	×	40	×	30	×	37.72	=	1,968.98
326	NRO	18	×	40	×	30	×	37.72	=	135.79
327	DeCA	16	×	40	×	30	×	37.72	=	120.70
329	NGB	126	×	40	×	30	×	37.72	=	950.54
505	Army	2,834	×	40	×	30	×	37.72	=	21,379.70
701	DON	1,055	×	40	×	30	×	37.72	=	7,958.92
806b	AF	541	×	40	×	30	×	37.72	=	4,081.30
Total										63,686.45

DoD seeks public comment on this analysis of time and cost savings as part of this proposed rule.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 also emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under E.O. 12866.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this rule are discussed in the ''expected cost savings'' section of the preamble.

2 U.S.C. Ch. 25, ''Unfunded Mandates Reform Act''

This proposed rule is not subject to the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532) because it does not contain a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100M or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Ch. 6)

It has been certified that 32 CFR part 310 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601), because it would not have a significant economic impact on a substantial number of small entities. The rule primarily implements the procedures for requesting access to and amendment of records covered by the Privacy Act and maintained by the Department of Defense.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 310 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 310

Privacy, Privacy Act, Records maintained on individuals.

Accordingly, 32 CFR part 310 is proposed to be revised to read as follows:

PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

Subpart A—General Provisions

Sec.
310.1 Purpose.
310.2 Definitions.

Subpart B—Requests for Access and Amendment to Records

310.3 Requesting access to records.
310.4 Access exemptions.
310.5 Responses to requests for access to records.
310.6 Appeals from denials of requests for access to records.
310.7 Requests for amendment or correction of records.
310.8 Civil remedies.
310.9 Requests for an accounting of record disclosures.
310.10 Fees.
310.11 Other rights and services.

Subpart C—Exemption Rules

310.12 Types of exemptions.
310.13 Exemptions for DoD-wide systems.
310.14 Department of the Air Force exemptions.
310.15 Department of the Army exemptions.
310.16 Department of the Navy exemptions.
310.17 Exemptions for specific Marine Corps record systems.
310.18 Defense Contract Audit Agency (DCAA) exemptions.
310.19 Defense Information Systems Agency (DISA) exemptions.
310.20 Defense Intelligence Agency (DIA) exemptions.
310.21 Defense Logistics Agency (DLA) exemptions.
310.22 Defense Security Service (DSS) exemptions.
310.23 Defense Threat Reduction Agency (DTRA) exemptions.
310.24 National Geospatial-Intelligence Agency (NGA) exemptions.
310.25 National Guard Bureau (NGB) exemptions.
310.26 National Reconnaissance Office (NRO) exemptions.
310.27 National Security Agency (NSA) exemptions.
310.28 Office of the Inspector General (OIG) exemptions.
310.29 Office of the Secretary of Defense (OSD) exemptions.

Authority: 5 U.S.C. 552a.

Subpart A—General Provisions

§ 310.1 Purpose.

This part contains the rules that the Department of Defense (Department or DoD) follows under the Privacy Act of 1974, 5 U.S.C. 552a. These rules should be read together with the Privacy Act. The rules in this part apply to all records in Privacy Act systems of records maintained by the Department. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Department to other entities outside the

Department. In addition, the Department processes all Privacy Act requests for access to records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, following the rules contained in 32 CFR part 286, giving individuals the benefit of both statutes.

§ 310.2 Definitions.

DoD Components means the Office the Office of the Secretary of Defense (OSD), the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this part as the ''DoD Components'').

Individual means a citizen of the United States or an alien lawfully admitted for permanent residence, as defined in the Privacy Act.

Maintain includes maintain, collect, use or disseminate, as defined in the Privacy Act.

Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, or symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph, as defined in the Privacy Act.

Request for access to a record means a request made under subsection (d)(1) of the Privacy Act.

Request for amendment or correction of a record means a request made under subsection (d)(2) of the Privacy Act.

Request for an accounting means a request made under subsection (c)(3) of the Privacy Act.

Requester means an individual who makes a request for access, a request for amendment or correction, or a request for an accounting under the Privacy Act.

System of records means any group of records under the control of the Department of Defense from which information is retrieved by the name of the individual or by some other identifying number, symbol, or other identifying particular assigned to the individual as defined in the Privacy Act.

Subpart B—Requests for Access and Amendment to Records

§ 310.3 Requesting access to records.

(a) Individuals may request access by writing to or appearing in person before the DoD Component that maintains the record. Written requests should be sent to the address listed in the record access procedures of the SORN containing the record requested. If the name of the system of records or the address for the DoD Component that has the record is unknown, the individual may look up the SORN or the contact information for the DoD Component Privacy Office at *http://www.defense.gov/privacy*.

(b) For access to the Official Personnel Files of federal civilian employees, which are maintained in the custody of the Department under the authority of the Office of Personnel Management (OPM) SORN OPM/GOVT–1, individuals must contact their DoD Component FOIA Requester Service Center. Contact information for DoD Component FOIA Requester Service Centers can be found at *https://www.foia.gov/report-makerequest.html*.

(c) Requesters should provide their full name, current address and email address, and when requested in the access procedures of the applicable SORN, date of birth, place of birth, and telephone number, to assist the DoD Component in responding to the request and providing released records to the requester. The requester must sign the request and have it notarized or submit the request under 28 U.S.C. 1746, a law that permits unsworn statements to be made under penalty of perjury as a substitute for notarization. To assist with the identification and location of requested records, when requested in the access procedures of the applicable SORN, the requester may also, at his or her option, include his or her DoD Identification Number (DoD ID Number) or Social Security Number (SSN). Providing a DoD ID Number or SSN should be appropriate for the type of record being sought.

(d) When making a request for access to records as the parent or guardian for an individual who is a minor or for an individual who is determined by a court to be incompetent, the parent/guardian must establish:

(1) The identity of the individual who is the subject of the record;

(2) The parent/guardian's own identity;

(3) That the requester is the parent or guardian of that individual, which may be proven by providing a copy of the individual's birth certificate showing parentage or a court order establishing the guardianship; and

(4) That the parent or guardian is acting on behalf of the individual in making the request.

(e) Members of the Military Services and married persons are not considered minors, regardless of age.

§ 310.4 Access exemptions.

DoD may deny an individual access to certain information about the individual that resides in a DoD Component's system of records when an exemption from the Privacy Act is claimed for the system of records and codified in the Code of Federal Regulations as described in Section 310.12. When an exemption pursuant to subsection (j) or (k) of the Privacy Act exists, it will be listed in the SORN for the particular system in which the individual's information is located. Records compiled in reasonable anticipation of a civil action or proceeding may be withheld pursuant to subsection (d)(5) of the Privacy Act.

§ 310.5 Responses to requests for access to records.

(a) Upon receipt of a request, a component will send an acknowledgment letter to the requester within 10 days (excluding Saturdays, Sundays, and legal public holidays) which shall confirm the requester's agreement to pay duplication fees, if any, and provide an assigned case file number for reference purposes.

(b) In some cases, the DoD Component initially receiving the request may refer the request to another DoD Component or agency. The DoD Component that initially received the request will send the requester a notice of referral that will identify each DoD Component or agency to which the request has been referred, as well as which part of the request has been referred.

(c) Access to protected health information, including medical records, is governed by the Privacy Act and DoD 6025.18–R, ''DoD Health Information Privacy Regulation'' (available at *http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/602518r.pdf*).

(d) When a DoD Component makes a determination to grant a request for access in whole or in part, the DoD Component shall notify the requester in writing or simply provide the requested record. The response to the request may be made in lieu of the acknowledgment of receipt provided the response will be made within 10 days (excluding Saturdays, Sundays, and legal public holidays). The DoD Component shall inform the requester of any fee charged for duplication of the record(s). If the request is made in person, the individual may receive the records directly in a manner not unreasonably disruptive of the DoD Component's operations, upon payment of any applicable fee. If the individual is accompanied by another person, the individual may be required to authorize

in writing any discussion of the records in the presence of the other person.

(e) A DoD Component denying a request for access in any respect shall notify the requester of that determination in writing.

(1) The notice of denial consists of:

(i) A determination to withhold any requested record in whole or in part;

(ii) A determination that a requested record does not exist or cannot be located; or

(iii) A determination that what has been requested is not a record subject to the Privacy Act.

(2) The denial notification letter shall be signed by the head of the DoD Component, or the DoD Component head's designee, and shall include:

(i) The date of the denial;

(ii) A brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied by the DoD Component in denying the request; and

(iii) A statement that the denial can be appealed within 60 calendar days in accordance with § 310.6. The statement will include the position title and the address of the appellate authority.

§ 310.6 Appeals from denials of requests for access to records.

(a) If the requester is dissatisfied with a DoD Component's response, the requester can appeal an adverse determination denying the request to the appellate authority listed in the notification of denial letter. The appeal must be made in writing, and it must be postmarked within 60 calendar days of the date of the letter denying the initial request for records. The letter of appeal should include a copy of the DoD Component's determination (including the assigned request number, if known). For the quickest possible handling, the appeal letter and the envelope should be marked: ''Privacy Act Appeal.''

(b) The appellant will be notified of the decision on his or her appeal in writing. If the decision affirms the adverse determination in whole or in part, the notification will include a brief statement of the reason(s) for the affirmation, including any exemptions applied, and will inform the appellant of the Privacy Act provisions for judicial review of the appellate authority's decision. If the adverse determination is reversed or modified, in whole or in part, the appellant will be notified in writing of this decision and the request will be reprocessed in accordance with that appeal decision.

(c) In order to seek a judicial review of a denial of a request for access to records, a requester must first file an appeal under this section.

(d) An appeal ordinarily will not be acted on if the request becomes a matter of litigation.

§ 310.7 Requests for amendment or correction of records.

(a) If the record is not subject to amendment and correction as stated in paragraph (b) of this section, an individual may make a request for amendment or correction of a DoD Component's record about that individual by writing directly to the DoD Component that maintains the record as identified in the published SORN applicable to the record. The request should identify each particular record in question, state the amendment or correction that is sought, and state why the record is not accurate, relevant, timely, or complete without the correction. The individual will also need to verify identity in the same manner as described in §§ 310.4(d) through (e). Factual documentation that is helpful to the DoD Component privacy officials should be submitted with the request. If it is believed that the same record exists in more than one system of records, this should be stated in the request, and the request should be addressed to each DoD Component that maintains a system of records containing the record as noted in this paragraph.

(b) Certain records are not subject to amendment or correction under the Privacy Act:

(1) Proceedings and determinations of courts-martial, military tribunal, or Military Boards of Correction are not generally subject to amendment or correction under the Privacy Act.

(2) Records in systems of records that have been exempted from amendment and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k) are not subject to amendment or correction.

(3) The amendment process is not intended to permit the alteration of records presented in the course of judicial or quasi-judicial proceedings such as the adjudication process for personnel security clearances or contesting grades in academic records. Any amendments or changes to these records normally are made through the specific procedures established for the amendment of such records.

(4) Nothing in the amendment process is intended or designed to permit a collateral attack upon what has already been the subject of a judicial or quasi-judicial determination. However, while the individual may not attack the accuracy of the judicial or quasi-judicial determination under this part, he or she may challenge the accuracy of the recording of that action.

(c) An individual requesting amendment or correction of records will receive a written acknowledgment of receipt of the request within 10 days (excluding Saturdays, Sundays, and legal public holidays), as required by the Privacy Act. The response to the request may be made in lieu of the acknowledgment of receipt provided the response is made within 10 days (excluding Saturdays, Sundays, and legal public holidays). The response to the request must be made promptly and indicate whether the request is granted or denied.

(d) If the request for amendment or correction is granted in whole or in part, the response to the individual will receive a description or copy of the amendment or correction made and, if a copy of the amended or corrected record is not included in the response, notification of the right to obtain a copy of the corrected or amended record in disclosable form.

(e) If the request for amendment or correction is denied in whole or in part, the response to the individual will include a signed letter stating:

(1) The reason(s) for the denial; and

(2) The procedure for appeal of the denial under paragraph (f) of this section, including the name, position title and business address of the official who will act on the appeal.

(f) An individual may appeal the denial of a request for amendment or correction to the individual's record to the appellate authority at the address listed in the notification of denial letter, in the same manner as for a denial of a request for access to records (see § 310.6). The appeal determination shall be made within 30 working days (excluding Saturdays, Sundays, and legal public holidays) from the date of the appeal, unless the period is extended for good cause. If the appeal is denied in whole or in part, the individual will be advised of the right to file a Statement of Disagreement as described in paragraph (g) of this section, and of the right under the Privacy Act for judicial review of the decision.

(g) If an appeal under this section is denied in whole or in part, the individual has the right to file a Statement of Disagreement that states the reason(s) for disagreeing with the DoD Component's denial of the request for amendment or correction. Statements of Disagreement must be concise, must clearly identify each part of any record that is disputed, and should generally be no longer than one typed page. The Statement of Disagreement must be sent to the DoD Component holding the respective

record. The Statement of Disagreement will be filed or notated in the system of records, and an annotation to the record itself will indicate the existence and location of the Statement of Disagreement.

(h) Notifications of amendment/correction or statements of disagreement will be made to all persons, organizations, and agencies to which the record was previously disclosed if an accounting of that disclosure was made in accordance with subsection (c) of the Privacy Act and § 310.9. If an individual has filed a Statement of Disagreement, a copy of the statement will be appended to the disputed record whenever the record is disclosed, and a concise statement of the reason(s) for denying the request to amend or correct the record may also be appended.

§ 310.8 Civil remedies.

In addition to the right to judicial review after a denied appeal for access to or amendment of a record, the requester has the right to bring a civil action against the Department if the Department:

(a) Fails to maintain a record concerning the individual with such accuracy, relevance, timeliness and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(b) Fails to comply with any other provision of the Privacy Act or this rule, in such a way as to have an adverse effect on the individual.

§ 310.9 Requests for an accounting of record disclosures.

(a) An individual may make a request for an accounting of any disclosure that has been made by the Department to another person, organization, or agency of any record about the individual maintained in a system of records.

(b) This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Records of disclosure accountings are maintained for five years after the disclosure or for the life of the record, whichever is longer.

(c) The request for an accounting should identify each particular record in question and should be made by writing directly to the DoD Component that maintains the record, following the procedures in § 310.3.

(d) DoD Components are not required to provide disclosure accountings when related to:

(1) Disclosures for which accountings are not required to be kept—in other words, disclosures that are made to employees within the Department who have a need for the record in the performance of their duties and disclosures that are made under the Freedom of Information Act;

(2) Disclosures made to law enforcement agencies for authorized law enforcement activities in response to written request from the head of the agency or instrumentality of those law enforcement agencies specifying the law enforcement activities for which the disclosures are sought; or

(3) Disclosures made from systems of records that have been exempted from accounting requirements.

(e) An individual may appeal a denial of a request for a disclosure accounting to the address listed in the notification of denial letter, in the same manner as a denial of a request for access to records, following the procedures in § 310.6.

§ 310.10 Fees.

(a) When an individual makes a Privacy Act request for a copy of a record in a system of records, the request shall be considered an agreement to pay all applicable fees.

(b) There is no minimum fee for duplication, and there is no automatic charge for processing a request. Fees for duplication of records will be charged in the same manner as requests for records under the Freedom of Information Act.

(c) Normally, fees are waived automatically if the direct costs of a given request are less than the cost of processing the fee. Decisions to waive or reduce fees that exceed the waiver threshold are made on a case-by-case basis.

§ 310.11 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Subpart C—Exemption Rules

§ 310.12 Types of exemptions.

(a) Exemptions. There are three types of exemptions permitted by the Privacy Act:

(1) An access exemption that exempts records complied in reasonable anticipation of a civil action or proceeding from the access provisions of the Act, pursuant to subsection (d)(5) of the Privacy Act;

(2) General exemptions that authorize the exemption of a system of records from all but certain specifically identified provisions of the Act, pursuant to subsection (j) of the Privacy Act; and

(3) Specific exemptions that allow a system of records to be exempted only from certain designated provisions of the Act, pursuant to subsection (k) of the Privacy Act.

Nothing in the Privacy Act permits exemption of any system of records from all provisions of the Act.

(b) *Civil Action or Proceeding.* In accordance with 5 U.S.C. 552a(d)(5), an individual is not entitled to access information that is compiled in reasonable anticipation of a civil action or proceeding. The term ''civil action or proceeding'' is intended to include court proceedings, preliminary judicial steps, and quasi-judicial administrative hearings or proceedings (*i.e.,* adversarial proceedings that are subject to rules of evidence). Any information prepared in anticipation of such actions or proceedings, including information prepared to advise DoD officials of the possible legal or other consequences of a given course of action, is protected. The exemption is similar to the attorney work-product privilege except that it applies even when the information is prepared by non-attorneys. The exemption does not apply to information compiled in anticipation of criminal actions or proceedings.

(c) *Exempt Records Systems.* Pursuant to 5 U.S.C. 552a(k)(1), all systems of records maintained by DoD will be exempt from the access provisions of 5 U.S.C. 552a(d) and the notification of access procedures of 5 U.S.C. 522a(e)(4)(H) to the extent that the system contains any information properly classified under Executive Order 13526, and is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all DoD systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

(d) *Exempt records in non-exempt systems.* Exempt records temporarily in the custody of another DoD Component are considered the property of the originating DoD Component. Access to these records is controlled by the system notices and rules of the originating DoD Component. Exempt records that have been incorporated into a nonexempt system of records are still exempt but only to the extent to which the

provisions of the Act for which an exemption has been claimed are identified. An exemption claimed for the system of records from which the record is obtained remains in effect when the purposes underlying the exemption for the record are still valid and necessary to protect the contents of the record. If a record is accidentally misfiled into a system of records, the system notice and rules for the system in which it should actually be filed shall govern.

§ 310.13 Exemptions for DoD-wide systems.

(a) DoD-wide exemptions for DoD-wide systems of records are established pursuant to 5 U.S.C. 552a(j) and (k) of the Privacy Act. The following exemptions are applicable to the following DoD-wide system(s) of records:

(1) *System identifier and name:* DUSDI 01-DoD ''Department of Defense (DoD) Insider Threat Management and Analysis Center (DITMAC) and DoD Component Insider Threat Records System.''

(i) *Exemption:* This system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (4)(G)(H) and (I), (5) and (8); and (g) of the Privacy Act.

(ii) Authority: 5 U.S.C. 552a(j)(2) and (k)(1), (2), (4), (5), (6), and (7).

(iii) Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent that such provisions have been identified and an exemption claimed for the record and the purposes underlying the exemption for the record pertain to the record.

(iv) Exemption from the particular subsections is justified for the following reasons:

(A) *Subsection (c)(3).* To provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation, and thereby seriously impede law enforcement or counterintelligence efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties, civil remedies, or counterintelligence measures. Access to the accounting of disclosures could also interfere with a civil or administrative action or investigation which may impede those actions or investigations. Access also could reveal the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations.

(B) *Subsection (c)(4).* This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(C) *Subsection (d)(1).* Disclosure of records in the system could reveal the identity of confidential sources and result in an unwarranted invasion of the privacy of others. Disclosure may also reveal information relating to actual or potential criminal investigations. Disclosure of classified national security information would cause damage to the national security of the United States. Disclosure could also interfere with a civil or administrative action or investigation; reveal the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations; and reveal the confidentiality and integrity of Federal testing materials and evaluation materials used for military promotions when furnished by a confidential source.

(D) *Subsection (d)(2).* Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(E) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2).

(F) *Subsection (e)(1).* It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement and counterintelligence, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(G) *Subsection (e)(2).* To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations.

(H) *Subsection (e)(3).* To inform individuals as required by this subsection could reveal the existence of a criminal investigation and compromise investigative efforts.

(I) *Subsection (e)(4)(G), (H), and (I).* These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2).

(J) *Subsection (e)(5).* It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(K) *Subsection (e)(8).* To serve notice could give persons sufficient warning to evade investigative efforts.

(L) *Subsection (g).* This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(v) In addition, in the course of carrying out analysis for insider threats, exempt records from other systems of records may in turn become part of the case records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained into this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary system of which they are a part.

(2) [Reserved]

(b) [Reserved]

§ 310.14 Department of the Air Force exemptions.

(a) All systems of records maintained by the Department of the Air Force shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein, which contain isolated items of properly classified information.

(b) An individual is not entitled to have access to any information compiled in reasonable anticipation of a civil action or proceeding (5 U.S.C. 552a(d)(5)).

(c) No system of records within Department of the Air Force shall be considered exempt under subsection (j) or (k) of the Privacy Act until the exemption rule for the system of records has been published as a final rule in the **Federal Register**.

(d) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to non-exempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Instruction, but will be limited to the extent that identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential violation will not be alerted to the investigation; the physical safety of witnesses, informants and law

enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on *a case-by-case basis.*

(e) *General exemptions.* The following systems of records claim an exemption under 5 U.S.C. 552a(j)(2), with the exception of F090 AF IG B, Inspector General Records and F051 AF JA F, Courts-Martial and Article 15 Records. They claim both the (j)(2) and (k)(2) exemption, and are listed under this part:

(1) *System identifier and name:* F071 AF OSI A, Counter Intelligence Operations and Collection Records.

(2) *System identifier and name:* F071 AF OSI C, Criminal Records.

(3) *System identifier and name:* F071 AF OSI D, Investigative Support Records.

(4) *System identifier and name:* F031 AF SP E, Security Forces Management Information System (SFMIS).

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) To protect ongoing investigations and to protect from access criminal investigation information contained in this record system, so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(B) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(C) From subsection (c)(4) because an exemption is being claimed for subsection this subsection will not be applicable.

(D) From subsection (d) because access the records contained in this system would inform the subject of an investigation of existence of that investigation, provide subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement.

(E) From subsection (e)(4)(H) because system of records is exempt from individual access pursuant to subsection (j) of the Privacy Act of 1974.

(F) From subsection (f) because this system of records has been exempted from access provisions of subsection (d).

(5) *System identifier and name:* F031 AF SF A, Correction and Rehabilitation Records.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(E) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j)(2) of the Privacy Act of 1974.

(F) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(G) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(H) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(I) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(J) From subsection (g) because this system of records compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(6) *System identifier and name:* F090 AF IG B, Inspector General Records.

(i) *Exemption:* (A) Parts of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(B) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2).

However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (e)(6)(i)(B): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede the Air Force IG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the ongoing investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d) and (f).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

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

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(7) *System identifier and name:* F051 AF JA F, Courts-Martial and Article 15 Records.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (e)(7)(i)(B): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be

placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(8) *System identifier and name:* F071 JTF A, Computer Network Crime Case System.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source.

Note to paragraph (e)(8)(i)(B): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the ongoing investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

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

(J) From subsection (g) because this system of records should be exempt to

the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(f) *Specific exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *System identifier and name:* F036 USAFA K, Admissions Records.

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source. Therefore, portions of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) may be exempt pursuant to 5 U.S.C. 552a(k)(7) from the following subsections of 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(2) *System identifier and name:* F036 AFPC N, Air Force Personnel Test 851, Test Answer Sheets.

(i) *Exemption:* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(6) from the following subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(6).

(iii) *Reasons:* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(3) *System identifier and name:* F036 USAFA A, Cadet Personnel Management System.

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identify of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(7) from the following subsections of 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(4) *System identifier and name:* F036 AETC I, Cadet Records.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) (Detachment Professional Officer Course Selection Rating Sheets; Air Force Reserve Officer Training Corps Form 0–24— Disenrollment Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G) and (H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(5) *System identifier and name:* F044 AF SG Q, Family Advocacy Program Records.

(i) *Exemption:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (f)(5)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3) and (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* From subsections (c)(3) and (d) because the exemption is needed to encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accounting, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(6) *System identifier and name:* F036 AF PC A, Effectiveness/Performance Reporting System.

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services (Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31, 1991) may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(7) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* (A) From subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other

record sources, which may result in circumvention of the access exemption.

(B) From subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

(C) From subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(D) From subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(7) *System identifier and name:* F036 AFDP A, Files on General Officers and Colonels Assigned to General Officer Positions.

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(7) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(8) *System identification and name:* F036 AF PC O, General Officer Personnel Data System.

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source. Therefore, portions of this system of records (Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 31, 1991) may be exempt pursuant to 5 U.S.C. 552a(k)(7) may be exempt from following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* (A) From subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.

(B) From subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

(C) From subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(D) From subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(9) *System identifier and name:* F036 AFPC K, Historical Airman Promotion Master Test File.

(i) *Exemption:* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(6) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(6).

(iii) *Reasons:* To protect the integrity, objectivity, and equity of the promotion testing system by keeping test questions and answers in confidence.

(10) *System identifier and name:* F071 AF OSI F, Investigative Applicant Processing Records.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect those who gave information in confidence during Air Force Office of Special Investigations applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the Air Force Office of Special Investigations personnel program that relies on selecting only qualified people.

(11) *System identifier and name:* F036 USAFA B, Master Cadet Personnel Record (Active/Historical).

(i) *Exemption:* Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identify of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(7) from the following subsections of 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(7).

(iii) *Reasons:* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(12) *System identifier and name:* F031 497IG A, Sensitive Compartmented Information Personnel Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source.

Note to paragraph (f)(12)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* To protect the identity of sources to which proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(13) *System identifier and name:* F071 AF OSI B, Security and Related Investigative Records.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(14) *System identifier and name:* F031 497IG B, Special Security Case Files.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(15) *System identifier and name:* F031 AF SP N, Special Security Files.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

(16) *System identifier and name:* F036 AF PC P, Applications for Appointment and Extended Active Duty Files.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsection of 5 U.S.C. 552a(d).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of the Air Force appointment or interservice transfer to the Air Force.

(17) *System identifier and name:* F036 AF DPG, Military Equal Opportunity and Treatment.

(i) *Exemption:* Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (f)(17)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 522a(k)(2) from the following subsections of 5 U.S.C. 552a(d), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (d) because access to the records contained in this system would inform the subject of an investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, and would present a serious impediment to law enforcement. In addition, granting individuals access to information collected while an Equal Opportunity and Treatment clarification/investigation is in progress conflicts with the just, thorough, and timely completion of the complaint, and could possibly enable individuals to interfere, obstruct, or mislead those clarifying/investigating the complaint.

(B) From subsection (e)(4)(H) because this system of records is exempt from individual access pursuant to subsection (k) of the Privacy Act of 1974.

(C) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(18) *System identifier and name:* F051 AF JA I, Commander Directed Inquiries.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. Note to paragraph (f)(18)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(19) [Reserved]

(20) *System identifier and name:* F033 AF A, Information Requests-Freedom of Information Act.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from 'other' systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(21) *System identifier and name:* F033 AF B, Privacy Act Request Files.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(22) *System identifier and name:* F051 AFJA E, Judge Advocate General's Professional Conduct Files.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (f)(22)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy

any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(23) *System identifier and name:* F033 USSC A, Information Technology and Control Records.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (f)(23)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(24) *System identifier and name:* F036 AETC X, College Scholarship Program.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability but only to the extent that disclosure would reveal the identity of a confidential source. Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) and when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential sources to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(25) *System identifier and name:* F032 AFCESA C, Civil Engineer System-Explosive Ordnance Records.

(i) *Exemption:* Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3056, may be exempt pursuant to 5 U.S.C. 552a(k)(3) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(3).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow

interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(26) *System identifier and name:* F051 AF JAA, Freedom of Information Appeal Records.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

§ 310.15 Department of the Army exemptions.

(a) *Special exemption.* 5 U.S.C. 552a(d)(5)—Denies individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(b) *General and specific exemptions.* The Secretary of the Army may exempt Army systems of records from certain requirements of the Privacy Act of 1974. The two kinds of exemptions that require Secretary of the Army enactment are general and specific exemptions. The general exemption authorizes the exemption of a system of records from most requirements of the Act; the specific exemptions authorize the exemption of a system of record from only a few.

(c) *General exemptions.* Only Army activities actually engaged in the enforcement of criminal laws as their principal function may claim the general exemption. See 5 U.S.C. 552a(j)(2). To qualify for this exemption, a system must consist of:

(1) Information compiled to identify individual criminal offenders and alleged offenders, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Information compiled for the purpose of criminal investigation including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual, compiled at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision.

(d) *Specific exemptions.* The Secretary of the Army has exempted all properly classified information and systems of records that have the following kinds of information listed in this section, from certain parts of the Privacy Act. The Privacy Act exemption reference appears in parentheses after each category.

(1) Classified information in every Army system of records. Before denying any individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Orders 11652, 12065, or 12958 and that it must remain so in the interest of national defense of foreign policy (5 U.S.C. 552a(k)(1)).

(2) Investigatory material compiled for law enforcement purposes (other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if this information has been used to deny someone a right, privilege or benefit to which the individual is entitled by Federal law, or for which an individual would otherwise be eligible as a result of the maintenance of the information, it must be released, unless doing so would reveal the identity of a confidential source.

Note to paragraph (d)(2): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. 3056 (5 U.S.C. 552a(k)(3)).

(4) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlements of individuals, except for census records which may be disclosed under 13 U.S.C. 8 (5 U.S.C. 552a(k)(4)).

(5) Investigatory material compiled solely to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only to the extent that disclosure would reveal the identity of a confidential source (5 U.S.C. 552a(k)(5)).

(6) Testing or examination material used solely to determine if a person is qualified for appointment or promotion in the Federal service. This information may be withheld only if disclosure would compromise the objectivity or fairness of the examination process (5 U.S.C. 552a(k)(6)).

(7) Evaluation material used solely to determine promotion potential in the Armed Forces. Information may be withheld, but only to the extent that disclosure would reveal the identity of a confidential source (5 U.S.C. 552a(k)(7)).

(e) *Procedures.* When a system manager seeks an exemption for a system of records, the following

information will be furnished to the Chief Information Officer, 107 Army Pentagon, Room 3E608, Washington, DC 20310–0107; applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the **Federal Register**, followed by a final rule 60 days later. No exemption maybe invoked until these steps have been completed.

(f) The Army system of records notices for a particular type of record will state whether the Secretary of the Army has authorized a particular general and specific exemption to a certain type of record. The Army system of records notices are published on the Defense Privacy and Civil Liberties Division's website: *http://dpcld.defense.gov/Privacy/DODComponentArticleList/tabid/6799/Category/278/department-of-the-army.aspx.*

(g) *Exempt Army records.* The following records may be exempt from certain parts of the Privacy Act:

(1) *System identifier and name:* A0020–1 SAIG, Inspector General Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to such records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violations of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information is retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(2) *System identifier and name:* A0 025–400–2 0AA, Army Records Information Management System (ARIMS).

(i) *Exemption:* During the course of records management, declassification and claims research, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Department of the Army hereby claims the same exemptions for the records from those ''other'' systems.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(1) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided to the President and others are not compromised, to protect records used solely as statistical records, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records may be exempt from specific provisions of 5 U.S.C. 552a.

(3) *System identifier and name:* A0025–55 OAA, Freedom of Information Act Program Files.

(i) *Exemption:* During the processing of Freedom of Information Act (FOIA) requests, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Department of the Army claims the same exemptions for the records from those ''other'' systems.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(1) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided to the President and others are not compromised, to protect records used solely as statistical records, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify

the specific reasons why the records may be exempt from specific provisions of 5 U.S.C. 552a.

(4) *System identifier and name:* A0027–1 DAJA, General Legal Files.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(E) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(F) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1) through (k)(7) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to such records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violations of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information is retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(5) *System identifier and name:* A0027–10a DAJA, Military Justice Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only

be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(6) *System identifier and name:* A0027–10b DAJA, Courts-Martial Records and Reviews.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(7) *System identifier and name:* A0040–5b DASG, Army Public Health Data Repository (APHDR).

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and (k)(4) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(4).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained

concerning the violations of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information is retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(8) *System identifier and name:* A0190–5 OPMG, Vehicle Registration System.

(i) *Exemption:* Parts of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its primary function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d) making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d) making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the, collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(9) *System identifier and name:* A0190–9 OPMG, Absentee Case Files.

(i) *Exemption:* Parts of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other

agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(10) *System identifier and name:* A0190–14 OPMG, Registration and Permit Files.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), is exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violations of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information is retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(11) *System identifier and name:* A0190–45 OPMG, Military Police Reporting Program Records (MPRP).

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of the system may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible

from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(12) *System identifier and name:* A0190–45a OPMG, Local Criminal Intelligence Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(13) *System identifier and name:* A0190–45b OPMG, Serious Incident Reporting Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the

enforcement of criminal laws. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(14) *System identifier and name:* A0190–47 DAPM–ACC, Army Corrections System and Parole Board Records.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent possible from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because an exemption is being claimed for subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(15) *System identifier and name:* A0195–2a USACIDC, Source Register.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(16) *System identifier and name:* A0195–2b USACIDC, Criminal Investigation and Crime Laboratory Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsections (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil

obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patters of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent possible from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsections (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(J) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(17) *System identifier and name:* A0195–2c USACIDC DoD, DoD Criminal Investigation Task Force (CITF) Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patters of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent possible from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(J) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(18) *System identifier and name:* A0195–2d USACIDC DoD, Defense Criminal Investigation DNA Database and Sample Repository; CODIS Records.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled

and maintained by a component of the agency that performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(19) *System identifier and name:* A0195–6 USACIDC, Criminal Investigation Accreditation and Polygraph Examiner Evaluation Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2), (k)(5), or (k)(7) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7).

(iii) *Reasons:* (A) From subsections (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further

necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(20) *System identifier and name:* A02107 DAMO, Expelled or Barred Person Files.

(i) *Exemption:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principal function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(8), (f) and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(J) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(K) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(21) *System identifier and name:* A0340–21 OAA, Privacy Case Files.

(i) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Army hereby claims the same exemptions.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), and (k)(1) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided to the President and others are not compromised, to protect records used solely as statistical records, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records may be exempt from specific provisions of 5 U.S.C. 552a.

(22) *System identifier and name:* A0351–12 DAPE, Applicants/Students, U.S. Military Academy Prep School.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(C) It is imperative that the confidential nature of evaluation material on individuals, furnished to the U.S. Military Academy Preparatory School under an express promise of confidentiality, be maintained to ensure the candid presentation of information necessary in determinations involving admission to or retention at the United States Military Academy and suitability for commissioned military service.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) and (k)(7) subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(7).

(iii) *Reasons:* (A) From subsections (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will

present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(23) *System identifier and name:* A0351–17a USMA, U.S. Military Academy Candidate Files.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5), (k)(6) or (k)(7) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5), (k)(6) and (k)(7).

(iii) *Reasons:* (A) From subsections (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(24) *System identifier and name:* A0351–17b USMA, U.S. Military Academy Management System Records.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(C) It is imperative that the confidential nature of evaluation and investigatory material on candidates, cadets, and graduates, furnished to the United States Military Academy under a promise of confidentiality be maintained to ensure the candid presentation of information necessary in determinations involving admissions to the Military Academy and suitability for commissioned service and future promotion.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) or (k)(7) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(7).

(iii) *Reasons:* (A) From subsections (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(25) *System identifier and name:* A0380–67 DAMI, Personnel Security Clearance Information Files.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(26) *System identifier and name:* A0381–20b DAMI, Foreign Intelligence/Counterintelligence/Information Operations/Security Files.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(E) To the extent that copies of exempt records from external systems of records are entered into A0381–10b DAMI, the Army hereby claims the same exemptions for those records as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), and (k)(1) through (k)(7).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(G) For records that are copies of exempt records from external systems of records, such records are only exempt from pertinent provisions of 5 U.S.C.

552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided to the President and others are not compromised, to protect records used solely as statistical records, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(27) *System identifier and name:* A0381–100a DAMI, Intelligence/Counterintelligence Source Files.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(28) *System identifier and name:* A0381–100b DAMI, Technical Surveillance Index.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2) or (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and

physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(29) *System identifier and name:* A0600–20 DCSG–1, Sexual Assault (SADMS) and Sexual Harassment (SHARP) Program Records.

(i) *Exemption:* This system of records is a compilation of information from other Department of Defense/Army systems of records. To the extent that copies of exempt records from those other systems of records are entered into this system of records, the Army G–1 hereby claims the same exemptions for the records from those other systems.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), and (k)(1) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided to the President and others are not compromised, to protect records used solely as statistical records, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records may be exempt from specific provisions of 5 U.S.C. 552a.

(30) *System identifier and name:* A0601–141 DASG, Applications for Appointment to Army Medical Department.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552(a)(k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(31) *System identifier and name:* A0601–210a USAREC, Enlisted Eligibility Files.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(32) *System identifier and name:* A0608–18 DASG, Army Family Advocacy Program Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to

such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) or (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because the requirements in those subsections are inapplicable to the extent that portions of this system of records may be exempt from subsection (d), concerning individual access.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(33) *System identifier and name:* A0614–115 DAMI, Department of the Army Operational Support Activities.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) from subsections 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d), because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (e)(4)(H) because portions of this system of records have been exempted from the access provisions of subsection (d), making these subsections not applicable.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(34) *System identifier and name:* A0025–2 PMG (DFBA) DoD, Defense Biometrics Identification Records System.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Exempt materials from other sources listed above may become part of the case records in this system of records. To the extent that copies of exempt records from other sources listed above are entered into these case records, the Department of the Army hereby claims the same exemptions, (j)(2) and (k)(2), for the records as claimed by the source systems, specifically to the extent that copies of exempt records may become part of these records from JUSTICE/FBI–019 Terrorist Screening Records System, the Department of the Army hereby claims the same exemptions for the records as claimed at their source (JUSTICE/FBI–019, Terrorist Screening Records System).

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) from subsections 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), making this subsection not applicable.

(C) From subsection (d) because access to such records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity that may relate to the jurisdiction of other cooperating agencies.

(E) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (e)(4)(H) because the requirements in those subsections are inapplicable to the extent that portions of this system of records may be exempt from subsection (d), concerning individual access.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because portions of this system of records have been exempted from the access provisions of subsection (d).

(L) From subsection (g) because portions of this system of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

(h) *Exempt OPM records.* Three Office of Personnel Management systems of records apply to Army employees, except for non-appropriated fund employees. These systems, the specific exemptions determined to be necessary and proper, the records exempted, provisions of the Privacy Act from which exempt, and justification are set forth below:

(1) Personnel Investigations Records (OPM/CENTRAL–9).

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to Title 18 U.S.C. 3056 may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(D) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(E) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(F) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(G) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5), (k)(6), or (k)(7) from subsections 5 U.S.C. 552a(c)(3) and (d).

(ii) *Reasons:* (A) Personnel investigations may obtain from another Federal agency, properly classified information which pertains to national defense and foreign policy. Application of exemption (k)(1) may be necessary to preclude the data subject's access to an amendment of such classified information under 5 U.S.C. 552a(d) in order to protect such information.

(B) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), *e.g.* investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records, under 552a(c)(3) and (d) because otherwise, it would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and

would present a serious impediment to law enforcement.

(C) Personnel investigations may obtain from another Federal agency, information that relates to providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. Application of exemption (k)(3) may be necessary to preclude the data subject's access to or amendment of such records under 5 U.S.C. 552a(d) to ensure protective services provided to the President and others are not compromised.

(D) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d) in order to protect the identity of confidential sources incident to determinations of suitability, eligibility, or qualifications for Federal employment, military service, contract, and security clearance determinations.

(E) All material and information in the records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject in order to preserve the confidentiality and integrity of Federal testing materials.

(F) All material and information in the records that meets the criteria stated in 5 U.S.C. 552a(k)(7) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject in order to safeguard evaluation materials used for military promotions when furnished by a confidential source.

(2) Recruiting, Examining, and Placement Records (OPM/GOVT–5).

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5), or (k)(6) from subsections 5 U.S.C. 552a(c)(3) and (d).

(ii) *Reasons:* (A) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d) in order to protect the identity of confidential sources incident to determinations of suitability, eligibility, or qualifications for Federal employment, military service, contract, and security clearance determinations. These exemptions are also claimed because this system contains investigative material compiled solely for the purpose of determining the appropriateness of a request for approval of an objection to an eligible individual's qualification for employment in the Federal service.

(B) All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(d), relating to access and amendment of records by the subject, in order to preserve the confidentiality and integrity of Federal testing materials.

(3) Personnel Research Test Validation Records (OPM/GOVT–6).

(i) *Exemption:* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(6) from subsections 5 U.S.C. 552a(d).

(ii) *Reasons:* All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to an amendment of the records by the data subject, in order to preserve the confidentiality and integrity of Federal testing materials.

(iii) Twelve Exceptions to the ''No Disclosure without Consent'' rule of the Privacy Act.

(A) 5 U.S.C. 552a(b)(1)—To DoD officers and employees who have a need for the record in the performance of their official duties. This is the ''official need to know'' concept.

(B) 5 U.S.C. 552a(b)(2)—FOIA requires release of the information pursuant to 5 U.S.C. 552.

(C) 5 U.S.C. 552a(b)(3)—For an authorized Routine Use, *i.e.* the ''Routine Use Exception.'' The Routine Use must be listed in the applicable system of records notice published in the **Federal Register** and the purpose of the disclosure must be compatible with the purpose for the published Routine Use.

(D) 5 U.S.C. 552a(b)(4)—To the Bureau of the Census to plan or carry out a census or survey, or related activity pursuant to Title 13 of the U.S. Code.

(E) 5 U.S.C. 552a(b)(5)—To a recipient who has provided the Department of the Army or DoD with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable.

(F) 5 U.S.C. 552a(b)(6)—To the National Archives and Records Administration as a record that has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value.

Note to paragraph (iii)(F): Records transferred to the Federal Records Centers for storage remain under the control of the Department of the Army and no accounting for disclosure is required under the Privacy Act.

(G) 5 U.S.C. 552a(b)(7)—To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Department of the Army or DoD specifying the particular portion desired and the law enforcement activity for which the record is sought.

(H) 5 U.S.C. 552a(b)(8)—To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure, notification is transmitted to the last known address of such individual.

(I) 5 U.S.C. 552a(b)(9)—To either House of Congress, or, to the extent the matter is within its jurisdiction, any committee or subcommittee thereof, or any joint committee of Congress or subcommittee of any such joint committee. Requests from a Congressional member acting on behalf of a constituent are not included in this exception, but may be covered by a routine use exception to the Privacy Act (See applicable Army system of records notice).

(J) 5 U.S.C. 552a(b)(10)—To the Comptroller General or authorized representatives, in the course of the performance of the duties of the Government Accountability Office.

(K) 5 U.S.C. 552a(b)(11)—Pursuant to the order of a court of competent jurisdiction. The order must be signed by a judge.

(L) 5 U.S.C. 552a(b)(12)—To a consumer reporting agency in

accordance with section 3711(e) of Title 31 of the U.S. Code. The name, address, SSN, and other information identifying the individual; amount, status, and history of the claim; and the agency or program under which the case arose may be disclosed. However, before doing so, agencies must complete a series of steps designed to validate the debt and to offer the individual an opportunity to repay it.

§ 310.16 Department of the Navy exemptions.

(a) All systems of records maintained by the DON shall be exempt from the requirements of the access provision of the Privacy Act (5 U.S.C. 552a(d)) under the (k)(1) exemption, to the extent that the system contains information properly classified under E.O. 12958 and that is required by that E.O. to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein that contain isolated items of properly classified information.

(1) *System identifier and name:* N01070–9, White House Support Program.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(D) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(E) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), and (k)(5).

(iii) *Reasons:* Exempted portions of this system contain information that has been properly classified under E.O. 12958, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of this system may also contain investigative records compiled for law enforcement purposes, the disclosure of which could reveal the identity of sources who provide information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law-enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

(2) *System identifier and name:* N01131–1, Officer Selection and Appointment System.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(D) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(E) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Granting individuals access to portions of this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(3) *System identifier and name:* N01133–2, Recruiting Enlisted Selection System.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(D) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(E) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Granting individuals access to portions of this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(4) *System identifier and name:* N01640–1, Individual Correctional Records.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G) through (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reason:* (A) Granting individuals access to portions of these records pertaining to or consisting of, but not limited to, disciplinary reports, criminal investigations, and related statements of witnesses, and such other related matter in conjunction with the enforcement of criminal laws, could interfere with the orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by these components and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to portions of these records, and the reasons therefore, necessitate the exemption of this system of records from the requirement of the other cited provisions.

(B) [Reserved]

(5) *System identifier and name:* N01754–3, Navy Child Development Services Program.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3) and (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) Exemption is needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recrimination, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children.

(B) [Reserved]

(6) *System identifier and name:* N03834–1, Special Intelligence Personnel Access File.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1) and (k)(5).

(iii) *Reasons:* (A) Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

(B) Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information and was obtained by providing an express or implied assurance to the source that his or her identity would not be revealed to the subject of the record.

(7) *System identifier and name:* N04060–1, Navy and Marine Corps Exchange Sales and Security Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(4)(G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and could also reveal and render ineffectual investigative techniques, sources, and methods used by these activities.

(8) [Reserved]

(9) *System identifier and name:* N05041–1, Inspector General (IG) Records.

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Portions of this system of records may be exempt from the provisions of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1) and (k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would permit individuals to obtain valuable information concerning the nature of the

investigation and would present a serious impediment to the orderly conduct of any investigative activities. Such accounting could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(B) From subsections (d) and (f) because access to the records would inform individuals of the existence and nature of the investigation; provide information that might result in the concealment, destruction, or fabrication of evidence; possibly jeopardize the safety and well-being of informants, witnesses and their families; likely reveal and render ineffectual investigatory techniques and methods and sources of information; and possibly result in the invasion of the personal privacy of third parties. Access could result in the release of properly classified information which could compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with the ongoing investigation and impose an impossible administrative burden by requiring investigations to be continually reinvestigated.

(C) From subsection (e)(1) because in the course of the investigation it is not always possible, at least in the early stages of the inquiry, to determine relevance and or necessity as such determinations may only occur after the information has been evaluated. Information may be obtained concerning the actual or potential violation of laws or regulations other than those relating to the ongoing investigation. Such information should be retained as it can aid in establishing patterns of improper activity and can provide valuable leads in the conduct of other investigations.

(D) From subsection (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (k)(1) and (k)(2) of the Privacy Act of 1974.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of sources and to protect the privacy and physical safety of witnesses. Although the system is exempt from this requirement, the DON has published a notice in broad, generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires.

(10) *System identifier and name:* N05300–3, Faculty Professional Files.

(i) *Exemptions:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(4)(G) and (H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* Exempted portions of this system contain information considered relevant and necessary to make a release determination as to qualifications, eligibility, or suitability for Federal employment, and was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(11) *System identifier and name:* N05354–1, Equal Opportunity Information Management System.

(i) *Exemptions:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(4)(G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1) and (k)(5).

(iii) *Reasons:* Granting access to information in this system of records could result in the disclosure of classified material, or reveal the identity of a source who furnished information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that will not disclose the identity of a confidential source.

(12) *System identifier and name:* N05520–1, Personnel Security Eligibility Information System.

(i) *Exemptions:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(E) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(4)(G) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(7).

(iii) *Reasons:* Granting individuals access to information collected and maintained in this system of records could interfere with orderly investigations; result in the disclosure of classified material; jeopardize the safety of informants, witnesses, and their families; disclose investigative techniques; and result in the invasion of privacy of individuals only incidentally related to an investigation. Material will be screened to permit access to unclassified information that will not disclose the identity of sources who provide the information to the Government under an express or implied promise of confidentiality.

(13) *System identifier and name:* N05520–4, NCIS Investigative Files System.

(i) *Exemptions:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G) through (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) Granting individuals access to information collected and maintained by this activity relating to the enforcement of criminal laws could interfere with the orderly investigations, with the orderly administration of justice, and possibly enable suspects to

avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by these components and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to portions of these records, and the reasons therefore, necessitate the exemption of this system of records from the requirement of the other cited provisions.

(B) [Reserved]

(iv) *Exemptions:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(C) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(D) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(E) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(F) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

(v) *Authority:* 5 U.S.C. 552a(k)(1), (k)(3), (k)(4), (k)(5) and (k)(6).

(vi) *Reasons:* (A) The release of disclosure accountings would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation, and the information contained, or the identity of witnesses or informants, would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record.

(B) Access to the records contained in this system would inform the subject of the existence of material compiled for law enforcement purposes, the premature release of which could prevent the successful completion of investigation, and lead to the improper influencing of witnesses, the destruction of records, or the fabrication of testimony. Exempt portions of this system also contain information that has been properly classified under E.O. 12958, and that is required to be kept secret in the interest of national defense or foreign policy.

(C) Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified information, and was obtained by providing an express or implied assurance to the source that his or her identity would not be revealed to the subject of the record.

(D) The notice of this system of records published in the **Federal Register** sets forth the basic statutory or related authority for maintenance of the system.

(E) The categories of sources of records in this system have been published in the **Federal Register** in broad generic terms. The identity of specific sources, however, must be withheld in order to protect the confidentiality of the source, of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) This system of records is exempted from procedures for notice to an individual as to the existence of records pertaining to him/her dealing with an actual or potential civil or regulatory investigation, because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation, pending or future. Mere notice of the fact of an investigation could inform the subject or others that their activities are under, or may become the subject of, an investigation. This could enable the subjects to avoid detection, to influence witnesses improperly, to destroy records, or to fabricate testimony.

(G) Exempt portions of this system containing screening board reports.

(H) Screening board reports set forth the results of oral examination of applicants for a position as a special agent with the Naval Investigation Service Command. Disclosure of these records would reveal the areas pursued in the course of the examination and thus adversely affect the result of the selection process. Equally important, the records contain the candid views of the members composing the board. Release of the records could affect the willingness of the members to provide candid opinions and thus diminish the effectiveness of a program which is essential to maintaining the high standards of the Special Agent Corps., *i.e.,* those records constituting examination material used solely to determine individual qualifications for appointment in the Federal Service.

(14) *System identifier and name:* N05520–5, Personnel Security Program Management Records System.

(i) *Exemptions:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (d)(1–5).

(ii) Authority: 5 U.S.C. 552a(k)(1) and (k)(5).

(iii) *Reasons:* (A) Granting individuals access to information collected and maintained in this system of records could result in the disclosure of classified material; and jeopardize the safety of informants, and their families. Further, the integrity of the system must be ensured so that complete and accurate records of all adjudications are maintained. Amendment could cause alteration of the record of adjudication.

(B) [Reserved]

(15) *System identifier and name:* N05580–1, Security Incident System.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3),

(c)(4), (d), (e)(2), and (e)(4)(G) through (I), (e)(5), (e)(8), (f) and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and of law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to his or her records, and the reason therefore, necessitate the exemption of this system of records from the requirements of other cited provisions.

(B) [Reserved]

(16) [Reserved]

(17) *System identifier and name:* N05800–1, Legal Office Litigation/Correspondence Files.

(i) *Exemptions:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(E) Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(F) Portions of this system of records are exempt from the following subsections of the Privacy Act: (d), (e)(1), and (f)(2), (3), and (4).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* (A) Subsection (d) because granting individuals access to information relating to the preparation and conduct of litigation would impair the development and implementation of legal strategy. Accordingly, such records are exempt under the attorney-client privilege. Disclosure might also compromise on-going investigations and reveal confidential informants. Additionally, granting access to the record subject would seriously impair the Navy's ability to negotiate settlements or pursue other civil remedies. Amendment is inappropriate because the litigation files contain official records including transcripts, court orders, investigatory materials, evidentiary materials such as exhibits, decisional memorandum and other case-related papers. Administrative due process could not be achieved by the ''ex parte'' correction of such materials.

(B) Subsection (e)(1) because it is not possible in all instances to determine relevancy or necessity of specific information in the early stages of case development. What appeared relevant and necessary when collected, ultimately may be deemed unnecessary upon assessment in the context of devising legal strategy. Information collected during civil litigation investigations which is not used during subject case is often retained to provide leads in other cases or to establish patterns of activity.

(C) Subsections (f)(2), (3), and (4) because this record system is exempt from the individual access provisions of subsection (d).

(18) *System identifier and name:* N01000–5, Naval Clemency and Parole Board Files.

(i) *Exemption:* (A) Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principal function any activity pertaining to the enforcement of criminal laws.

(B) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(4), (d), (e)(4)(G), and (f).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) Granting individuals access to records maintained by this Board could interfere with internal processes by which Board personnel are able to formulate decisions and policies with regard to clemency and parole in cases involving naval prisoners and other persons under the jurisdiction of the Board. Material will be screened to permit access to all material except such records or documents as reflecting items of opinion, conclusion, or recommendation expressed by individual board members or by the board as a whole.

(B) The exemption of the individual's right to access to portions of these records, and the reasons therefore, necessitate the partial exemption of this system of records from the requirements of the other cited provisions.

(19) *System identifier and name:* N01752–1, Family Advocacy Program System.

(i) *Exemptions:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Portions of this system of records are exempt from the following subsections of the Privacy Act: (c)(3) and (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) Exemption is needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals

access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accounting, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well-being of parents and their children.

(B) Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(20) *System identifier and name:* N12930–1, Human Resources Group Personnel Records.

(i) *Exemptions:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) Portions of this system of records are exempt from the following subsections of the Privacy Act: (d), (e)(4)(G) and (H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(6).

(iii) *Reasons:* (A) Exempted portions of this system contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment, and was obtained by providing express or implied promise to the source that his or her identity would not be revealed to the subject of the record.

(B) Exempted portions of this system also contain test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service, the disclosure of which would comprise the objectivity or fairness of the testing or examination process.

(21) *System identifier and name:* N05813–4, Trial/Government Counsel Files.

(i) *Exemption.* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Portions of this system of records that may be exempt pursuant to subsection 5 U.S.C. 552a(j)(2) are (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(5), (e)(4)(G), (H), and (I), (e)(8), (f), and (g).

(ii) *Exemption.* Information specifically authorized to be classified under E.O. 12958, as implemented by DOD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(iii) *Exemption.* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Portions of this system of records that may be exempt pursuant to subsections 5 U.S.C. 552a(k)(1) and (k)(2) are (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(iv) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

(v) *Reasons:* (A) From subsection (c)(3) because release of accounting of disclosure could place the subject of an investigation on notice that he/she is under investigation and provide him/her with significant information concerning the nature of the investigation, resulting in a serious impediment to law enforcement investigations.

(B) From subsections (c)(4), (d), (e)(4)(G), and (e)(4)(H) because granting individuals access to information collected and maintained for purposes relating to the enforcement of laws could interfere with proper investigations and orderly administration of justice. Granting individuals access to information relating to the preparation and conduct of criminal prosecution would impair the development and implementation of legal strategy. Amendment is inappropriate because the trial/Government counsel files contain official records including transcripts, court orders, and investigatory materials such as exhibits, decisional memorandum and other case-related papers. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render in effective investigation techniques, sources, and methods used by law enforcement personnel, and could result in the invasion of privacy of individuals only incidentally related to an investigation.

(C) From subsection (e)(1) because it is not always possible in all instances to determine relevancy or necessity of specific information in the early stages of case development. Information collected during criminal investigations and prosecutions and not used during the subject case is often retained to provide leads in other cases.

(D) From subsection (e)(2) because in criminal or other law enforcement investigations, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of an investigation, presenting a serious impediment to law enforcement investigations.

(E) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(F) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(G) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(H) From subsection (e)(8) because compliance would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures, or evidence.

(I) From subsection (f) and (g) because this record system is exempt from the individual access provisions of subsection (d).

(J) Consistent with the legislative purpose of the Privacy Act of 1974, the DON will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the DON's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(22) *System identifier and name:* NM05211–1, Privacy Act Request Files and Tracking System.

(i) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the DON hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(23) *System identifier and name:* NM05720–1, FOIA Request/Appeal Files and Tracking System.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the DON hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

§ 310.17 Exemptions for specific Marine Corps record systems.

(a) [Reserved]

(1) *System identifier and name:* MIN00001, Personnel and Security Eligibility and Access Information System.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Portions of this system of records are exempt for the following subsections of the Privacy Act: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(3), and (k)(5), as applicable.

(iii) *Reasons:* (A) Exempt portions of this system contain information that has been properly classified under E.O. 12958, and that is required to be kept secret in the interest of national defense or foreign policy.

(B) Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his or her identity would not be revealed to the subject of the record.

(C) Exempt portions of this system further contain information that identifies sources whose confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

(2) [Reserved]

(b) [Reserved]

§ 310.18 Defense Contract Audit Agency (DCAA) exemptions.

(a) *General information.* There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Privacy Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If a new system of records originates for which an exemption is proposed, or an additional or new exemption for an existing system of records is proposed, the exemption shall be submitted with the system of records notice. No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve significant and legitimate Government purposes.

(b) *Specific exemptions.*

(1) *System identifier and name:* RDCAA 900.1, DCAA Internal Review Case Files.

(i) *Exemption:* Any portions of this system of records which fall under the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5)

(iii) *Reasons:* (A) From subsection (c)(3) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents.

(B) From subsection (d) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Disclosures could also subject sources and witnesses to harassment or intimidation which jeopardize the safety and well-being of themselves and their families.

(C) From subsection (e)(1) because the nature of the investigation functions creates unique problems in prescribing specific parameters in a particular case as to what information is relevant or necessary. Due to close liaison and working relationships with other Federal, state, local, foreign country law enforcement agencies, and other governmental agencies, information may be received which may relate to a case under the investigative jurisdiction of another government agency. It is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(4)(G) through (H) because this system of records is exempt from the access provisions of subsection (d).

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

(2) [Reserved]

§ 310.19 Defense Information Systems Agency (DISA) exemptions.

(a) Section 5 U.S.C. 552a (j) and (k) authorize an agency head to exempt certain systems of records or parts of certain systems of records from some of the requirements of the act. This part reserves to the Director, DISA, as head of an agency, the right to create exemptions pursuant to the exemption provisions of the act. All systems of records maintained by DISA shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 11652, ''Classification and Declassification of National Security Information and Material,'' dated March 8, 1972 (37 FR 10053, May 19, 1972) and which is required by the executive order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified.

(1) *System identifier and name:* K890.23, DISA Inspector General Investigative Tracker (DIGit).

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(j)(2), (k)(2)and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I).

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5).

(iii) *Reasons:* To ensure the integrity of the privacy and civil liberties process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through privacy and civil liberties channels for fear of retribution or harassment.

(2) [Reserved]

§ 310.20 Defense Intelligence Agency (DIA) exemptions.

(a) All systems of records maintained by the Director Intelligence Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not specifically designated for exemption may contain isolated information which has been properly classified.

(b) The Director, Defense Intelligence Agency, designated the systems of records listed below for exemptions under the specified provisions of the Privacy Act of 1974, as amended (Pub. L. 93–579).

(1) *System identification and name:* LDIA 0271, Investigations and Complaints.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k) (2) and (5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(ii) *Authority:* 5 U.S.C. 552a(k) (2) and (5).

(iii) *Reasons:* The reasons for asserting these exemptions are to ensure the integrity of the Inspector General process within the Agency. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just,

thorough and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Also, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through Inspector General channels for fear of retribution or harassment.

(2) *System identifier and name:* LDIA 13–0001, Conflict Management Programs.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I)

(ii) *Authority:* 5 U.S.C. 552a (k)(2) and (k)(5)

(iii) *Reasons:* Claiming these exemptions ensures the integrity of the conflict management process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals to not seek redress for wrongs through available channels for fear of retribution or harassment.

(3) *System identifier and name:* LDIA 0660, Security and Counterintelligence Files.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k)(2), (k)(5) and (k)(6) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5) and (k)(6).

(iii) *Reasons:* The reasons for asserting these exemptions are to ensure the integrity of the adjudication process used by the Agency to determine the suitability, eligibility or qualification for Federal service with the Agency and to make determinations concerning the questions of access to classified materials and activities. The proper execution of this function requires that the Agency have the ability to obtain candid and necessary information in order to fully develop or resolve pertinent information developed in the process. Potential sources, out of fear or retaliation, exposure or other action, may be unwilling to provide needed information or may not be sufficiently frank to be a value in personnel screening, thereby seriously interfering with the proper conduct and adjudication of such matters; and protects information used for medical, psychological evaluations, security questionnaires and polygraph testing.

(4) [Reserved]

(5) *System identifier and name:* LDIA 10–0001, Equal Opportunity, Diversity and Alternate Dispute Resolution Records.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (5)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. The specific sections of 5 U.S.C. 552a from which the system is to be exempted are 5 U.S.C. 552a(c)(3) and (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to an accounting of disclosures as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prospective interest by DIA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (c)(4), (d), and (f) because providing access to this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources that would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his/her records and the reasons therefore necessitate the exemptions of this system of records from the requirements of the other cited provisions.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise). In addition, this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts

at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

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

(I) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(6) *System identifier and name:* LDIA 10–0002, Foreign Intelligence and Counterintelligence Operation Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (6)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) The specific sections of 5 U.S.C. 552a from which the system is to be exempted are 5 U.S.C. 552a(c)(3) and (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to an accounting of disclosures as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prospective interest by DIA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (c)(4), (d), and (f) because providing access to this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources that would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his/her records and the reasons therefore necessitate the exemptions of this system of records from the requirements of the other cited provisions.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal investigation. The effect would be somewhat adverse to established investigative methods and techniques.

(F) From subsections (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise). In addition, this system of records is exempt from the access provisions of subsection (d).

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

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

(I) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(7) *System identifier and name:* LDIA 0900, Accounts Receivable, Indebtedness and Claims.

(i) *Exemption:* During the course of accounts receivable, indebtedness or claims actions, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the DIA hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have

been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(8) *System identifier and name:* LDIA 0010, Information Requests-Freedom of Information Act (FOIA) and Privacy Act.

(i) *Exemption:* During the course of information requests-FOIA and Privacy Act actions, exempt records/material from other systems of records may become part of this system of records. For such records/material, DIA hereby claims the same exemptions as is claimed for the systems from which such records/material are derived.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) through (k)(7).

(iii) *Reasons:* Records in a system of records are only exempted from pertinent provisions of 5 U.S.C. 552a to the extent such provisions are identified and an exemption claimed. In general, exemptions claimed protect properly classified information relating to national defense and foreign policy; avoid interference during the conduct of criminal, civil, or administrative actions or investigations; ensure protective services provided the President and others are not compromised; protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations; preserve the confidentiality and integrity of Federal testing materials; and safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule(s) for the systems of records from which the records/materials was derived will identify the specific reasons why the records/materials are exempt from provisions of 5 U.S.C. 552a.

(9) *System identifier and name:* LDIA 12–0002, Privacy and Civil Liberties Case Management System.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* The reasons for asserting these exemptions is to ensure the integrity of the privacy and civil liberties process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through privacy and civil liberties channels for fear of retribution or harassment.

(10) *System identifier and name:* LDIA 0209, Litigation Case Files.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or which he would otherwise be eligible, as a result of maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. This exemption provides limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d)(1)(2)(3)(4)(5), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I). Exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this case record, the Defense Intelligence Agency hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records, which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* The reason for asserting these exemptions (k)(2) and (k)(5) is to ensure the integrity of the litigation process.

(11) *System identifier and name:* LDIA 10–0004 Occupational, Safety, Health, and Environmental Management Records.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k)(2)(k)(4) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d)(1), (d)(2), (d)(3), (d)(4), (d)(5); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); (f)(1), (f)(2), (f)(2), (f)(3), (f)(4), (f)(5).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* The reasons for asserting these exemptions are to ensure the integrity of an investigative or administrative process and to protect statistical records. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution during an investigation or administrative action. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals to not to seek redress for concerns about occupational safety, health, environmental issues and accident reporting. Information is used to comply regulatory reporting requirements.

§ 310.21 Defense Logistics Agency (DLA) exemptions.

(a) The Director, DLA or designee may claim an exemption from any provision of the Privacy Act from which an exemption is allowed.

(b) An individual is not entitled to access information that is compiled in reasonable anticipation of a civil action or proceeding. The term ''civil action or proceeding'' is intended to include court proceedings, preliminary judicial

steps, and quasi-judicial administrative hearings or proceedings (*i.e.,* adversarial proceedings that are subject to rules of evidence). Any information prepared in anticipation of such actions or proceedings, to include information prepared to advise DLA officials of the possible legal or other consequences of a given course of action, is protected. The exemption is similar to the attorney work-product privilege except that it applies even when the information is prepared by non-attorneys. The exemption does not apply to information compiled in anticipation of criminal actions or proceedings.

(c) *Exempt Records Systems.* All systems of records maintained by the Defense Logistics Agency will be exempt from the access provisions of 5 U.S.C. 552a(d) and the notification of access procedures of 5 U.S.C. 522a(e)(4)(H) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 13526 and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all DLA systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

(1) *System identifier and name:* S170.04 (Specific exemption), Debarment and Suspension Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). If an individual, however, is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (c)(1)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) The specific sections of 5 U.S.C. 552a from which the system is exempt are 5 U.S.C. 552a(c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From 5 U.S.C. 552a(c)(3), as granting access to the accounting for each disclosure, as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of an investigation or prosecutive interest by DLA or other agencies. This seriously could compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or making witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From 5 U.S.C. 552a(d)(1) through (4) and (f), as providing access to records of a civil investigation, and the right to contest the contents of those records and force changes to be made to the information contained therein, would seriously interfere with and thwart the orderly and unbiased conduct of an investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would: Allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach to satisfy any Government claim arising from the investigation or proceeding.

(C) From 5 U.S.C. 552a(e)(1), as it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From 5 U.S.C. 552a(e)(4)(G) and (H), as there is no necessity for such publication since the system of records would be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments and corrections to the information in the system.

(E) From 5 U.S.C. 552a(e)(4)(I), as to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DLA, nevertheless, will continue to publish such a notice in broad generic terms as is its current practice.

(2) *System identifier and name:* S500.10 (Specific exemption), Personnel Security Files.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From 5 U.S.C. 552a(c)(3) and (d), when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it would impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources may be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From 5 U.S.C. 552a(e)(1), as in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision making by the Department when making required suitability, eligibility, and qualification determinations.

(3) *System identifier and name:* S500.20 (Specific exemption), Defense Logistics Agency (DLA) Criminal Incident Reporting System (DCIRS).

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the

scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). If an individual, however, is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (3)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) The specific sections of 5 U.S.C. 552a from which the system is to be exempted are 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3), as to grant access to an accounting of disclosures as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutive interest by DLA or other agencies. This could seriously compromise case preparation by: Prematurely revealing its existence and nature; compromising or interfering with witnesses or making witnesses reluctant to cooperate; and leading to suppression, alteration, or destruction of evidence.

(B) From 5 U.S.C. 552a(d) and (f), as providing access to this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and wellbeing of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information also could reveal and render ineffectual investigative techniques, sources, and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources that would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his/her records and the reasons therefore necessitate the exemptions of this system of records from the requirements of the other cited provisions.

(C) From 5 U.S.C. 552a(e)(1), as it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From 5 U.S.C. 552a(e)(4)(G), (H), and (I), as it will provide protection against notification of investigatory material which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the ongoing investigation, reveal investigatory techniques, and place in jeopardy confidential informants who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(4) *System identifier and name:* S500.30 (Specific exemption), Incident Investigation/Police Inquiry Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). If an individual, however, is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information, except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (4)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) The specific sections of 5 U.S.C. 552a from which the system is exempt are 5 U.S.C. 552a(c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From 5 U.S.C. 552a(c)(3), because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutive interest by DLA or other agencies. This could seriously compromise case preparation by: Prematurely revealing its existence and nature; compromising or interfering with witnesses or making witnesses reluctant to cooperate; and leading to suppression, alteration, or destruction of evidence.

(B) From 5 U.S.C. 552a(d)(1) through (d)(4), and (f), as providing access to records of a civil or administrative investigation, and the right to contest the contents of those records and force changes to be made to the information contained therein, would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would: Provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach to satisfy any Government claim arising from the investigation or proceeding.

(C) From 5 U.S.C. 552a(e)(1), as it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From 5 U.S.C. 552a(e)(4)(G) and (H), as this system of records is compiled for law enforcement purposes and is exempt from the access provisions of 5 U.S.C. 552a(d) and (f).

(E) From 5 U.S.C. 552a(e)(4)(I), because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DLA, nevertheless, will continue to publish such a notice in broad generic terms as is its current practice.

(5) *System identifier and name:* S500.60 (Specific exemption), Defense

Logistics Agency Enterprise Hotline Program Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). If an individual, however, is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information, except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (5)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) The specific sections of 5 U.S.C. 552a from which the system is exempt are 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G), (H), (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3), as to grant access to an accounting of disclosures as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutive interest by DLA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or making witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From 5 U.S.C. 552a(d)(1) through (4) and (f), as providing access to records of a civil or administrative investigation, and the right to contest the contents of those records and force changes to be made to the information contained therein, would interfere seriously with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow: Interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach to satisfy any Government claim arising from the investigation or proceeding.

(C) From 5 U.S.C. 552a(e)(1), as it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From 5 U.S.C. 552a(e)(4)(G) and (H), as this system of records is compiled for law enforcement purposes and is exempt from the access provisions of 5 U.S.C. 552a(d) and (f).

(E) From 5 U.S.C. 552a(e)(4)(I), as to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. DLA will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(6) *System identifier and name:* S510.30 (Specific/General Exemption), Freedom of Information Act/Privacy Act Requests and Administrative Appeal Records.

(i) *Exemption:* During the processing of a Freedom of Information Act/Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may, in turn, become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Defense Logistics Agency claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1) through (7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy; to avoid interference during the conduct of criminal, civil, or administrative actions or investigations; to ensure protective services provided the President and others are not compromised; to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations; to preserve the confidentiality and integrity of Federal testing materials; and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(7) *System identifier and name:* S240.28 DoD (Specific exemption), Case Adjudication Tracking System (CATS).

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d)(1)(2)(3)(4), and (e)(1).

(i) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From 5 U.S.C. 552a(c)(3) and (d)(1)(2)(3)(4), when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the confidential source's identity not only will result in the Department breaching the express promise of confidentiality made to the source but it would impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources may be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From 5 U.S.C. 552a(e)(1), as in the collection of information for investigatory purposes, it is not always possible to determine the relevance and

necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision making by the Department when making required suitability, eligibility, and qualification determinations.

§ 310.22 Defense Security Service (DSS) exemptions.

(a) *General.* The Director of the Defense Security Service establishes the following exemptions of records systems (or portions thereof) from the provisions of these rules, and other indicated portions of Public Law 93–579, in this section. They may be exercised only by the Director, Defense Security Service and the Chief of the Office of FOI and Privacy. Exemptions will be exercised only when necessary for a specific, significant and legitimate reason connected with the purpose of a records system, and not simply because they are authorized by statute. Personal records releasable under the provisions of 5 U.S.C. 552 will not be withheld from subject individuals based on these exemptions.

(b) All systems of records maintained by DSS shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and which is required by the Executive Order to be withheld in the interest of national defense of foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain items of information that have been properly classified.

(1) *System identifier and name:* V1–01, Privacy and Freedom of Information Request Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be, exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2), (k)(3), (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H) and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(3), (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DSS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise);

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise);

(C) From subsections (d) and (f) because requiring DSS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DSS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(2) *System identifier and name:* V5–01, Investigative Files System.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2), (k)(3), or (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(3), or (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DSS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise

that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring DSS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DSS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(3) *System identifier and name:* V5–02, Defense Clearance and Investigations Index (DCII).

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DSS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring DSS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DSS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(4) *System identifier and name:* V5–03, Case Control Management System (CCMS).

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) or (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DSS to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring DSS to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require DSS to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(5) *System identifier and name:* V5–04, Counterintelligence Issues Database (CII–DB).

(i) *Exemption:* (A) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(B) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(C) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(D) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be

exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(E) Any portion of this system that falls within the provisions of 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5) may be exempt from the following subsections (c)(3); (d)(1) through (d)(5); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because giving the individual access to the disclosure accounting could alert the subject of an investigation to the existence and nature of the investigation and reveal investigative or prosecutive interest by other agencies, particularly in a joint-investigation situation. This would seriously impede or compromise the investigation and case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate with the investigators; lead to suppression, alteration, fabrication, or destruction of evidence; and endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families.

(B) From subsection (d) because the application of these provisions could impede or compromise an investigation or prosecution if the subject of an investigation had access to the records or were able to use such rules to learn of the existence of an investigation before it would be completed. In addition, the mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(C) From subsection (e)(1) because during an investigation it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation. In addition, during the course of an investigation, the investigator may obtain information that related primarily to matters under the investigative jurisdiction of another agency, and that information may not be reasonably segregated. In the interest of effective law enforcement, DSS investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(D) From subsections (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) because this system is exempt from subsection (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that these records will be exempt from these subsections. However, DSS has published information concerning its notification and access procedures, and the records source categories because under certain circumstances, DSS could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(6) [Reserved]

§ 310.23 Defense Threat Reduction Agency (DTRA) exemptions.

(a) *Exemption for classified material.* All systems of records maintained by the Defense Threat Reduction Agency shall be exempt under section (k)(1) of 5 U.S.C. 552a, to the extent that the systems contain any information properly classified under E.O. 12598 and that is required by that E.O. to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

(1) *System identifier and name:* HDTRA 007, Security Operations.

(i) *Exemption:* Portions of this system of records may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(4), (e)(1), (e)(4)(G), (H), (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DTRA to safeguard certain investigations and relay law enforcement information without compromise of the information, and protect the identities of confidential sources who might not otherwise come forward and who have furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(B) From subsection (d)(1) through (d)(4) and (f) because providing access to records of a civil investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with, and thwart the orderly and unbiased conduct of security investigations. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1), (e)(4)(G), (H), (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information; under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(2) *System identifier and name:* HDTRA 011, Inspector General Investigation Files.

(i) *Exemption:* Portions of this system of records may be exempt from the provisions of 5 U.S.C. 552a(c)(3); (d)(1) through (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable DTRA to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise.)

(B) From subsection (d)(1) through (d)(4) and (f) because providing access to records of a civil investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable

information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(3) *System identifier and name:* HDTRA 021, Freedom of Information Act and Privacy Act Request Case Files.

(i) *Exemption:* During the processing of a Freedom of Information Act or Privacy Act request exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Defense Threat Reduction Agency claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6) and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(b) [Reserved]

§ 310.24 National Geospatial-Intelligence Agency (NGA) exemptions.

(a) *Exempt systems of record.* All systems of records maintained by the NGA and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be withheld in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records, including those not otherwise specifically designated for exemptions herein, which contain isolated items of properly classified information.

(1) *System identifier and name:* B0210–07, Inspector General Investigative and Complaint Files.

(i) *Exemption:* (A) Investigative material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NGA or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NGA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, NGA will grant access to nonexempt material in the records being maintained. Disclosure will be governed

by NGA's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

(2) *System identifier and name:* NGA–004, NGA Threat Mitigation Records.

(i) *Exemption:* (A) Exempt materials from JUSTICE/FBI—019 Terrorist Screening Records System may become part of the case records in this system of records. To the extent that copies of exempt records from JUSTICE/FBI—019, Terrorist Screening Records System are entered into these Threat Mitigation case records, NGA hereby claims the same exemptions (j)(2) and (k)(2), for the records as claimed in JUSTICE/FBI—019, Terrorist Screening Records system of records of which they are a part.

(B) Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(C) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5).

(iii) *Reasons:* (A) Pursuant to 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5) NGA is claiming the following exemptions for certain records within the Threat Mitigation Records system: 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f), and (g). Additionally, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made.

(B) In addition to records under the control of NGA, the Threat Mitigation system of records may include records originating from systems of records of other law enforcement and intelligence agencies which may be exempt from certain provisions of the Privacy Act. However, NGA does not assert exemption to any provisions of the Privacy Act with respect to information submitted by or on behalf of individuals.

(C) To the extent the Threat Mitigation system contains records originating from other systems of records, NGA will rely on the exemptions claimed for those records in the originating system of records. Exemptions for certain records within the Threat Mitigation system from particular subsections of the Privacy Act are justified for the following reasons:

(*1*) From subsection (c)(3) (Accounting for Disclosures) because giving a record subject access to the accounting of disclosures from records concerning him or her could reveal investigative interest on the part of the recipient agency that obtained the record pursuant to a routine use. Disclosure of the accounting could therefore present a serious impediment to law enforcement efforts on the part of the recipient agency because the individual who is the subject of the record would learn of third agency investigative interests and could take steps to evade detection or apprehension. Disclosure of the accounting also could reveal the details of watch list matching measures under the Threat Mitigation system, as well as capabilities and vulnerabilities of the watch list matching process, the release of which could permit an individual to evade future detection and thereby impede efforts to ensure security.

(*2*) From subsection (c)(4) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(*3*) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of Department of Homeland Security or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security sensitive information that could be detrimental to national security.

(*4*) From subsection (e)(1) because it is not always possible for NGA or other agencies to know in advance what information is both relevant and necessary for it to complete an identity comparison between individuals and a known or suspected terrorist. In addition, because NGA and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(*5*) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations, it is not feasible to rely upon information furnished by the individual concerning his own activities.

(D) From subsection (e)(3), to the extent that this subsection is interpreted to require NGA to provide notice to an individual if NGA or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(E) From subsections (e)(4)(G) and (H) and (I) (Agency Requirements) and (f) (Agency Rules), because this system is exempt from the access provisions of 5 U.S.C. 552a(d).

(F) From subsection (e)(5) because many of the records in this system coming from other system of records are

derived from other agency record systems and therefore it is not possible for NGA to ensure their compliance with this provision, however, NGA has implemented internal quality assurance procedures to ensure that data used in the matching process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. However, NGA has implemented internal quality assurance procedures to ensure that the data used in the matching process is as thorough, accurate, and current as possible.

(G) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on NGA and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(H) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(I) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(3) *System identifier and name:* NGA–003, National Geospatial-Intelligence Agency Enterprise Workforce System.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (3)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(ii) *Authority:* 5 U.S.C. 552a (k)(2).

(iii) *Reasons:* Pursuant to 5 U.S.C. 552a (k)(2), the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(A) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(B) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(C) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(D) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(E) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(F) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(G) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude NGA personnel from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(H) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with NGA's ability to cooperate with law enforcement who would obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(I) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(4) *System identifier and name:* NGA–008, National Geospatial-Intelligence Agency Polygraph Records System.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (4)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(ii) *Authority:* 5 U.S.C. 552a (k)(2).

(iii) *Reasons:* Pursuant to 5 U.S.C. 552a (k)(2), the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(A) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(B) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(C) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(D) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(E) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(F) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(G) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude NGA personnel from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(H) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with NGA's ability to cooperate with law enforcement who would obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(I) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(5) *System identifier and name:* NGA–010, National Geospatial-Intelligence Agency Security Financial Disclosure Reporting Records System.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* Pursuant to 5 U.S.C. 552a(k)(2), and (k)(5) the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(A) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to

the existence of that investigation and reveal investigative interest on the part of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process. Analyst case notes will be kept separate from the individual's data submission. Those case notes will contain investigative case leads and summaries, sensitive processes, evidence gathered from external sources and potential referrals to law enforcement agencies.

(B) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(C) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(D) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(b) [Reserved]

§ 310.25 National Guard Bureau (NGB) exemptions.

(a) *General information.* There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a SOR from all but a few requirements of 5 U.S.C. 552a. The specific exemption authorizes exemption of a SOR or portion thereof, from only a few specific requirements. If a new SOR originates for which an exemption is proposed, or an additional or new exemption for an existing SOR is proposed, the exemption shall be submitted with the SORN. No exemption of a SOR shall be considered automatic for all records in the system. The System Manager shall review each requested records and apply the exemptions only when this will serve significant and legitimate purpose of the Federal Government.

(b) *Exemption for classified material.* All SOR maintained by the NGB shall be exempt under section (k)(1) of 5 U.S.C. 552a to the extent that the systems contain any information properly classified under Executive Order 13526 and that is required by that Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

(c) *Exemption for anticipation of a civil action or proceeding.* All systems of records maintained by the NGB shall be exempt under section (d)(5) of 5 U.S.C. 552a, to the extent that the record is compiled in reasonable anticipation of a civil action or proceeding.

(d) *General exemptions.* No SOR within the NGB shall be considered exempt under subsection (j) or (k) of 5 U.S.C. 552a until the exemption rule for the SOR has been published as a final rule in the FR.

(e) *Specific exemptions.*

(1) *System identifier and name:* INGB 001, Freedom of Information Act (5 U.S.C.) and Privacy Act (5 U.S.C. 552a) Case Files.

(i) *Exemption:* During the course of a 5 U.S.C. 552 or 5 U.S.C. 552a action, exempt materials from other systems of records may, in turn, become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are entered into this 5 U.S.C. 552 or 5 U.S.C. 552a case record, the NGB hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary SOR which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this SOR. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(2) *System identifier and name:* INGB 005, Special Investigation Reports and Files.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (e)(2)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a SOR used in personnel or administrative actions. Any portion of this SOR which falls within the provisions of 5 U.S.C. 552a(k)(2) may be

exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) of 5 U.S.C. 552a because to grant access to the accounting for each disclosure as required by 5 U.S.C. 552a, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) of 5 U.S.C. 552a because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under 5 U.S.C. 552a would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) of 5 U.S.C. 552a because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) of 5 U.S.C. 552a because this SOR is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) of 5 U.S.C. 552a because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

§ 310.26 National Reconnaissance Office (NRO) exemptions.

(a) All systems of records maintained by the NRO shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and which is required by the Executive Order to be withheld in the interest of national defense of foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain items of information that have been properly classified.

(b) No system of records within the NRO shall be considered exempt under subsection (j) or (k) of the Privacy Act until the exemption and the exemption rule for the system of records has been published as a final rule in the **Federal Register**.

(c) An individual is not entitled to have access to any information compiled in reasonable anticipation of a civil action or proceeding (5 U.S.C. 552a(d)(5)).

(d) Proposals to exempt a system of records will be forwarded to the Defense Privacy Office, consistent with the requirements of this part, for review and action.

(1) *System identifier and name:* QNRO–23, Counterintelligence Issue Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for law enforcement purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO

will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(2) *System identifier and name:* QNRO–10, Inspector General Investigative Files.

(i) *Exemption:* This system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Any portion of this system which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede the NRO IG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-going investigation, reveal investigative techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to NRO IG's close liaison and working relationships with other Federal, state, local and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity, which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

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

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

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

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(iv) *Exemption:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(v) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(vi) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would

seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(4) *System identifier and name:* QNRO–15, Facility Security Files.

(i) *Exemption:* (A) Investigative material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d)(1) through (d)(4), and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(5) *System identifier and name:* QNRO–19, Customer Security Services Personnel Security Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege,

or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d)(1) through (d)(4), and (f) because providing access to investigatory records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigatory purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

(6) *System identifier and name:* NRO–21, Personnel Security Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) and/or (k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the NRO or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d)(1) through (d)(4), and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in

light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for law enforcement purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NRO will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the NRO will grant access to nonexempt material in the records being maintained. Disclosure will be governed by NRO's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

(7) *System identifier and name:* QNRO–4, Freedom of Information Act and Privacy Act Files.

(i) *Exemption:* During the processing of a Freedom of Information Act/Privacy Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the NRO hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7). (4) Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(8) *System identifier and name:* QNRO–27, Legal Records.

(i) *Exemption:* Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a (k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

§ 310.27 National Security Agency (NSA) exemptions.

(a) *General exemption.* The general exemption established by 5 U.S.C. 552a(j)(2) may be claimed to protect investigative records created and maintained by law enforcement activities of the NSA.

(b) *Specific exemptions.* The specific exemptions permit certain categories of records to be exempt from certain specific provisions of the Privacy Act.

(1) *(k)(1) exemption.* Information properly classified under Executive Order 12958 and that is required by Executive Order to be kept secret in the interest of national defense or foreign policy.

(2) *(k)(2) exemption.* Investigatory information compiled for law-enforcement purposes by non-law enforcement activities and which is not within the scope of § 310.51(a). If an individual is denied any right, privilege or benefit that he or she is otherwise entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. This subsection when claimed allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(3) *(k)(3) exemption.* Records maintained in connection with providing protective services to the

President and other individuals identified under 18 U.S.C. 3506.

(4) *(k)(4) exemption.* Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8.

(5) *(k)(5) exemption.* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information, but only to the extent such material would reveal the identity of a confidential source. This provision allows protection of confidential sources used in background investigations, employment inquiries, and similar inquiries that are for personnel screening to determine suitability, eligibility, or qualifications.

(6) *(k)(6) exemption.* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process.

(7) *(k)(7) exemption.* Evaluation material used to determine potential for promotion in the Military Services, but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(c) All systems of records maintained by the NSA/CSS and its components shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein, which contain isolated items of properly classified information.

(1) *System identifier and name:* GNSA 01, Access, Authority and Release of Information File.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(2) *System identifier and name:* GNSA 02, Applicants.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(3) *System identifier and name:* GNSA 03, Correspondence, Cases, Complaints, Visitors, Requests.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (3)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(4) *System identifier and name:* GNSA 04, Military Reserve Personnel Data Base.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(5) *System identifier and name:* GNSA 05, Equal Employment Opportunity Data.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (5)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(C) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) and (k)(4) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(4).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only

after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(6) *System identifier and name:* GNSA 06, Health, Medical and Safety Files.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) and (k)(6) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(6).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(7) *System identifier and name:* GNSA 08, Payroll and Claims.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (7)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish

such a notice in broad generic terms, as is its current practice.

(8) *System identifier and name:* GNSA 09, Personnel File.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) and (k)(6) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(6).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(9) *System identifier and name:* GNSA 10, Personnel Security File.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (9)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(D) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(5), and (k)(6) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5), and (k)(6).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(10) *System identifier and name:* GNSA 12, Training.

(i) *Exemption:* (A) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

(C) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) and (k)(6) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5), and (k)(6).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(11) *System identifier and name:* GNSA 29 (General Exemption), NSA/CSS Office of Inspector General Investigations and Complaints.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if any individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (11)(i): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) through (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations

(12) *System identifier and name:* GNSA 14, Library Patron File Control System.

(i) *Exemption:* (A) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(B) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(4) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(4).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression,

alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(13) *System identifier and name:* GNSA 15, Computer Users Control System.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (13)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(14) *System identifier and name:* GNSA 17, Employee Assistance Service (EAS) Case Record System.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (14)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression,

alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments to and corrections of the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(15) *System identifier and name:* GNSA 18, Operations Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (15)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because there is no necessity for such publication since the system of records will be exempt from the underlying duties to provide notification about and access to information in the system and to make amendments and corrections to the information in the system.

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. NSA will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(16) *System identifier and name:* GNSA 20, NSA Police Operational Files.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (16)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(4), and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to

the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(17) [Reserved]

(18) *System identifier and name:* GNSA 25, NSA/CSS Operations Travel Records.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source.

Note to paragraph (18)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(ii) *Authority:* 5 U.S.C. 552a(k)(2)(k)(4).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(19) *System identifier and name:* GNSA 26, NSA/CSS Accounts Receivable, Indebtedness and Claims.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (19)(i)(A): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Records maintained solely for statistical research or program evaluation purposes and which are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records which may be disclosed under 13 U.S.C. 8, may be exempt pursuant to 5 U.S.C. 552a(k)(4).

(ii) *Authority:* 5 U.S.C. 552a(k)(2)(k)(4).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of the disclosure accounting would place the subject of an investigation on notice that they are under investigation and provide them with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(B) From subsections (d) and (f) because providing access to records of a civil or administrative investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of

information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(20) *System identifier and name:* ID: GNSA 28 (General Exemption), Freedom of Information Act, Privacy Act and Mandatory Declassification Review Records.

(i) *Exemption:* During the processing of letters and other correspondence to the National Security Agency/Central Security Service, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the National Security Agency/Central Security Service hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) through (k)(7).

(iii) *Reasons:* During the course of a FOIA/Privacy Act and/or MDR action, exempt materials from other system of records may become part of the case records in this system of records. To the extent that copies of exempt records from those other systems of records are entered into these case records, NSA/CSS hereby claims the same exemptions for the records as claimed in the original primary system of records of which they are a part. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

§ 310.28 Office of the Inspector General (OIG) exemptions.

(a) *Exemption for classified records.* Any record in a system of records maintained by the Office of the Inspector General which falls within the provisions of 5 U.S.C. 552a(k)(1) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) to the extent that a record system contains any record properly classified under Executive Order 12958 and that the record is required to be kept classified in the interest of national defense or foreign policy. This specific exemption rule, claimed by the Inspector General under authority of 5 U.S.C. 552a(k)(1), is applicable to all systems of records maintained, including those individually designated for an exemption herein as well as those not otherwise specifically designated for an exemption, which may contain isolated items of properly classified information.

(b) The Inspector General of the Department of Defense claims an exemption for the following record systems under the provisions of 5 U.S.C. 552a(j) and (k)(1)–(k)(7) from certain indicated subsections of the Privacy Act of 1974. The exemptions may be invoked and exercised on a case-by-case basis by the Deputy Inspector General for Investigations or the Director, Communications and Congressional Liaison Office, and the Chief, Freedom of Information/Privacy Act Office, which serve as the Systems Program Managers. Exemptions will be exercised only when necessary for a specific, significant and legitimate reason connected with the purpose of the records system.

(c) No personal records releasable under the provisions of The Freedom of Information Act (5 U.S.C. 552) will be withheld from the subject individual based on these exemptions.

(1) *System identifier and name:* CIG–04, Case Control System.

(i) *Exemption:* Any portion of this system which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons: (A)* From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede OIG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the ongoing investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to OIG's close liaison and working relationships with other Federal, state, local and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

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

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself

provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(J) For comparability with the exemption claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness, and completeness cannot apply to this record system. Information gathered in an investigation is often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

(2) *System identifier and name:* CIG–06, Investigative Files.

(i) *Exemption:* Any portion of this system which falls within the provisions of 5 U.S.C. 552a(j)(2) may be exempt from the following subsections of 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), (I), (e)(5), (e)(8), (f), and (g).

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons: (A)* From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede OIG's criminal law enforcement.

(B) From subsection (c)(4) and (d), because notification would alert a subject to the fact that an open investigation on that individual is taking place, and might weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

(C) From subsection (e)(1) because the nature of the criminal and/or civil investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to OIG's close liaison and working relationships with other Federal, state, local and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(2) because collecting information to the fullest extent possible directly from the subject individual may or may not be practical in a criminal and/or civil investigation.

(E) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal and/or civil investigation. The effect would be somewhat adverse to established investigative methods and techniques.

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

(G) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the investigative process. It is the nature of law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

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

(J) For comparability with the exemption claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness, and completeness cannot apply to this record system. Information gathered in an investigation is often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

(3) *System identifier and name:* CIG–15, Departmental Inquiries Case System.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Any portions of this system which fall under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because disclosures from this system could interfere with the just, thorough and timely resolution of the compliant or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents.

(B) From subsection (d) because disclosures from this system could interfere with the just thorough and timely resolution of the compliant or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Disclosures could also subject sources and witnesses to harassment or intimidation which jeopardize the safety and well-being of themselves and their families.

(C) From subsection (e)(1) because the nature of the investigation function creates unique problems in prescribing specific parameters in a particular case as to what information is relevant or necessary. Due to close liaison and working relationships with other Federal, state, local and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another government agency. It is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(4) (G) through (H) because this system of records is exempt from the access provisions of subsection (d).

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

(4) *System identifier and name:* CIG–16, DOD Hotline Program Case Files.

(i) *Exemption:* Any portions of this system of records which fall under the provisions of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (H), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents.

(B) From subsection (d) because disclosures from this system could interfere with the just, thorough and timely resolution of the complaint or inquiry, and possibly enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Disclosures could also subject sources and witnesses to harassment or intimidation which jeopardize the safety and well-being of themselves and their families.

(C) From subsection (e)(1) because the nature of the investigation functions creates unique problems in prescribing specific parameters in a particular case as to what information is relevant or necessary. Due to close liaison and working relationships with other Federal, state, local, and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another government agency. It is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(D) From subsection (e)(4)(G) through (H) because this system of records is exempt from the access provisions of subsection (d).

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

(5) *System identifier and name:* CIG 01, Privacy Act and Freedom of Information Act Case Files.

(i) *Exemption:* During the processing of a Freedom of Information Act (FOIA) and Privacy Act (PA) request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Inspector General, DoD, claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(6) *System identifier and name:* CIG–21, Congressional Correspondence Tracking System.

(i) *Exemption:* During the processing of a Congressional inquiry, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Inspector General, DoD, claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7)

(ii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(7) *System identifier and name:* CIG 23, Public Affairs Files.

(i) *Exemption:* During the course of processing a General Counsel action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into the Public Affairs Files, the Office of the Inspector General hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent (A) such provisions have been identified and an exemption claimed for the original record and (B) the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(8) *System identifier and name:* CIG–29, Privacy and Civil Liberties Complaint Reporting System.

(i) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a (j)(2), (k)(2)and (k)(5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I).

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(2), and (k)(5).

(iii) *Reasons:* To ensure the integrity of the privacy and civil liberties process. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough, and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying, or fabricating evidence or documents. In addition, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through privacy and civil liberties channels for fear of retribution or harassment. There is a clear need to protect national security information from inadvertent disclosure.

§ 310.29 Office of the Secretary of Defense (OSD) exemptions.

(a) *General information.* The Secretary of Defense designates those Office of the Secretary of Defense (OSD) systems of records which will be exempt from certain provisions of the Privacy Act. There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If an OSD Component originates a new system of records for which it proposes an exemption, or if it proposes an additional or new exemption for an existing system of records, it shall submit the recommended exemption with the records system notice as outlined in § 311.6. No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve significant and legitimate Government purpose.

(b) *General exemptions.* The general exemption provided by 5 U.S.C. 552a(j)(2) may be invoked for protection of systems of records maintained by law enforcement activities. Certain functional records of such activities are not subject to access provisions of the Privacy Act of 1974. Records identifying criminal offenders and alleged offenders consisting of identifying data and notations of arrests, the type and disposition of criminal charges, sentencing, confinement, release, parole, and probation status of individuals are protected from disclosure. Other records and reports compiled during criminal investigations, as well as any other records developed at any stage of the criminal law enforcement process from arrest to indictment through the final release from parole supervision are excluded from release.

(1) *System identifier and name:* DWHS P42.0, DPS Incident Reporting and Investigations Case Files.

(i) *Exemption:* Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (4); (d)(1) through (d)(5); (e)(1) through (e)(3); (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* The Defense Protective Service is the law enforcement body for the jurisdiction of the Pentagon and immediate environs. The nature of certain records created and maintained by the DPS requires exemption from access provisions of the Privacy Act of 1974. The general exemption, 5 U.S.C. 552a(j)(2), is invoked to protect ongoing investigations and to protect from access, criminal investigation information contained in this record system, so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the file.

(2) *System identifier and name:* JS006.CND, Department of Defense Counternarcotics C4I System.

(i) *Exemption:* Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, section (c) (3) and (4); (d)(1) through (d)(5); (e)(1) through (e)(3); (e)(4)(G) and (e)(4)(H); (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5) of the Act.

(ii) *Authority:* 5 U.S.C. 552a(j)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede USSOUTHCOM's criminal law enforcement.

(B) For subsections (c)(4) and (d) because notification would alert a subject to the fact that an investigation of that individual is taking place, and might weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

(C) From subsections (e)(4)(G) and (H) because this system of records is exempt from the access provisions of subsection (d) pursuant to subsection (j).

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

(E) For compatibility with the exemption claimed from subsection (f),

the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness and completeness cannot apply to this record system. Information gathered in criminal investigations is often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

(F) From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to USSOUTHCOM's close liaison and working relationships with the other Federal, as well as state, local and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

(G) From subsection (e)(2) because collecting information to the greatest extent possible directly from the subject individual may or may not be practicable in a criminal investigation. The individual may choose not to provide information and the law enforcement process will rely upon significant information about the subject from witnesses and informants.

(H) From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal investigation. The effect would be somewhat inimical to established investigative methods and techniques.

(I) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the criminal investigative process. It is the nature of criminal law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significant as further investigation brings new details to light.

(J) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(3)–(15) [Reserved]

(16) *System identifier and name:* DWHS E06, Enterprise Correspondence Control System (ECCS).

(i) *Exemption:* During the staffing and coordination of actions to, from, and within components in conduct of daily business, exempt materials from other systems of records may in turn become part of the case record in this document control system. To the extent that copies of exempt records from those ''other'' systems of records are entered into this system, the Office of the Secretary of Defense hereby claims the same exemptions for the records from those ''other'' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a (j)(2) and (k)(1) through (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(c) *Specific exemptions:* All systems of records maintained by any OSD Component shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under Executive Order 11265, 'National Security Information,' dated June 28, 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under E.O. 11265, 'National Security Information,' dated June 28, 1979, as amended, and required by the Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified. The Secretary of Defense has designated the following OSD system of records described below specifically exempted from the appropriate provisions of the Privacy Act pursuant to the designated authority contained therein:

(1) *System identifier and name:* DGC 16, Political Appointment Vetting Files.

(i) *Exemption:* Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* From subsections (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source.

(2) *System identifier and name:* DWHS P28, The Office of the Secretary of Defense Clearance File.

(i) *Exemption:* This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning the specific information which would reveal the identity of the source.

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* This exemption is required to protect the confidentiality of the sources of information compiled for

the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(3) *System identifier and name:* DGC 04, Industrial Personnel Security Clearance Case Files.

(i) *Exemption:* All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of title 5 U.S.C. 552a: (c)(3); (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* This system of records is exempt from subsections (c)(3) and (d) of section 552a of 5 U.S.C. which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(4) *System identifier and name:* DWHS P32, Standards of Conduct Inquiry File.

(i) *Exemption:* This system of records is exempted from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of: Investigatory material compiled for law enforcement purposes; or investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of investigatory material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

(ii) *Authority:* 5 U.S.C. 552a(k)(2) and (5).

(iii) *Reasons:* These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of: enforcement of the conflict of interest statutes by the Department of Defense Standards of Conduct Counselor, General Counsel, or their designees; and determining suitability eligibility or qualifications for Federal civilian employment, military service or Federal contracts of those alleged to have violated or caused others to violate the Standards of Conduct regulations of the Department of Defense.

(5) *System identifier and name:* DUSDP 02, Special Personnel Security Cases.

(i) *Exemption:* All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(6) *System identifier and name:* DODDS 02.0, Educator Application Files.

(i) *Exemption:* All portions of this system which fall within 5 U.S.C. 552a(k)(5) may be exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* It is imperative that the confidential nature of evaluation and investigatory material on teacher application files furnished the Department of Defense Dependent Schools (DoDDS) under promises of confidentiality be exempt from disclosure to the individual to insure the candid presentation of information necessary to make determinations involving applicants suitability for DoDDS teaching positions.

(7) *System identifier and name:* DGC 20, DoD Presidential Appointee Vetting File.

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Portions of this system of records that may be exempt pursuant to 5 U.S.C. 552a(k)(5) are subsections (d)(1) through (d)(5).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(8) *System identifier and name:* DWHS P29, Personnel Security Adjudications File.

(i) *Exemption:* Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source

would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

(9) *System identifier and name:* JS004SECDIV, Joint Staff Security Clearance Files.

(i) *Exemption:* Portions of this system of records are exempt pursuant to the provisions of 5 U.S.C. 552a(k)(5) from subsections 5 U.S.C. 552a(d)(1) through (d)(5).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* From subsections (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

(10) *System identifier and name:* DFMP 26, Vietnamese Commando Compensation Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1–R, may cause damage to the national security.

(11) *System identifier and name:* DUSP 11, POW/Missing Personnel Office Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1–R, may cause damage to the national security.

(12) *System identifier and name:* DFOISR 05, Freedom of Information Act Case Files.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Office of the Secretary of Defense claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(13) *System identifier and name:* DFOISR 10, Privacy Act Case Files.

(i) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Office of the Secretary of Defense hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(14) *System identifier and name:* DHRA 02, PERSEREC Research Files.

(i) *Exemption:* (A) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source, but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a

promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decisionmaking by the Department when making required suitability, eligibility, and qualification determinations.

(15) *System identifier and name:* DCIFA 01, CIFA Operational and Analytical Records.

(i) *Exemption:* This system of records is a compilation of information from other Department of Defense and U.S. Government systems of records. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, OSD hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent (A) such provisions have been identified and an exemption claimed for the original record and (B) the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions are claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(16) *System identifier and name:* DMDC 15 DoD, Armed Services Military Accession Testing.

(i) *Exemption:* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service or military service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(d).

(ii) *Authority:* 5 U.S.C. 552a(k)(6).

(iii) *Reasons:* (A) An exemption is required for those portions of the Skill Qualification Test system pertaining to individual item responses and scoring keys to preclude compromise of the test and to ensure fairness and objectivity of the evaluation system.

(B) From subsection (d)(1) when access to those portions of the Skill Qualification Test records would reveal the individual item responses and scoring keys. Disclosure of the individual item responses and scoring keys will compromise the objectivity and fairness of the test as well as the validity of future tests resulting in the Department being unable to use the testing battery as an individual assessment tool.

(17) *System identifier and name:* DMDC 11, Investigative Records Repository.

(i) *Exemption:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3506, may be exempt pursuant to 5 U.S.C. 552a(k)(3).

(C) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(D) Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2), (k)(3), or (k)(5) may be exempt from the following subsections of 5 U.S.C. 552(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(3), or (k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable the Department to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the source's identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring OSD to grant access to records and agency rules for access and amendment of records would unfairly impede the agency's investigation of allegations of unlawful activities. To require OSD to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(18) *System identifier and name:* DMDC 12 DoD, Joint Personnel Adjudication System (JPAS).

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsections (c)(3) and (d) when access to accounting disclosure and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From subsection (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

(19) *System identifier and name:* DA&M 01, Civil Liberties Program Case Management System.

(i) *Exemption:* Records contained in this System of Records may be exempted from the requirements of subsections (c)(3); (d)(1), (2), (3), and (4); (e)(1) and (e)(4)(G), (H), and (I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1). Records may be exempted from these subsections or, additionally, from the requirements of subsections (c)(4); (e)(2), (3), and (8) of the Privacy Act of 1974 consistent with any exemptions claimed under 5 U.S.C. 552a(j)(2) or (k)(1), (k)(2), or (k)(5) by the originator of the record, provided the reason for the exemption remains valid and necessary. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and is published at 32 CFR part 311.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), or (k)(5).

(iii) *Reasons:* (A) From subsections (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an intelligence or investigative interest on the part of the Department of Defense and could result in release of properly classified national security or foreign policy information.

(B) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of law enforcement agencies or compromise sensitive information classified in the interest of national security. In the absence of a national security basis for exemption, records in this system may be exempted from access and amendment to the extent necessary to honor promises of confidentiality to persons providing information concerning a candidate for position. Inability to maintain such confidentiality would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(C) From subsection (e)(1) (maintain only relevant and necessary records) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. In the absence of a national security basis for exemption under subjection (k)(1), records in this system may be exempted from the relevance requirement pursuant to subjection (k)(5) because it is not possible to determine in advance what exact information may assist in determining the qualifications and suitability of a candidate for position. Seemingly irrelevant details, when combined with other data, can provide a useful composite for determining whether a candidate should be appointed.

(D) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subject of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment, and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the Office of the Secretary of Defense has published notice concerning notification, access, and contest procedures because it may, in certain circumstances, determine it appropriate to provide subjects access to all or a portion of the records about them in this system of records.

(E) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods, and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement the Office of the Secretary of Defense identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in this system of records.

(F) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records, and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the Office of the Secretary of Defense has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the Office of the Secretary of Defense may determine it appropriate to satisfy a record subject's access request.

(20) *System identifier and name:* DMDC 13 DoD, Defense Clearance and Investigations Index.

(i) *Exemption:* Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subjections of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I) and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsection (c)(3) because it will enable OSD components to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of

investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring OSD to grant access to records and agency rules for access and amendment of records would unfairly impede the investigation of allegations of unlawful activities. To require OSD to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an ongoing investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

(21) *System identifier and name:* DWHS E05, Mandatory Declassification Review Files.

(i) *Exemption:* Information classified under E.O. 13526, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 13526, as implemented by DoD 5200.1–R, may cause damage to the national security.

(22) *System identifier and name:* DPFPA 05, Computer Aided Dispatch and Records Management System (CAD/RMS).

(i) *Exemption:* Portions of this system that fall within 5 U.S.C. 552a(j)(2) and/or (k)(2) are exempt from the following provisions of 5 U.S.C. 552a, section (c)(3) and (4); (d); (e)(1) through (e)(3); (e)(4)(G) through (I); (e)(5); (e)(8); (f) and (g) of the Act, as applicable.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iii) *Reasons:* (A) From subsections (c)(3) and (4) because making available to a record subject the accounting of disclosure from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected offender by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(B) From subsection (d) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement and investigatory records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing law enforcement investigations and analysis activities and impose an excessive administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(C) From subsections (e)(1) through (e)(3) because it is not always possible to determine what information is relevant and necessary at an early stage in a given investigation. Also, because DoD and other agencies may not always know what information about a known or suspected offender may be relevant to law enforcement for the purpose of conducting an operational response.

(D) From subsections (e)(4)(G) through (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(E) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the criminal investigative process. It is the nature of criminal law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significant as further investigation brings new details to light.

(F) From subsection (e)(8) because the requirement to serve notice on an individual when a record is disclosed under compulsory legal process could unfairly hamper law enforcement processes. It is the nature of law enforcement that there are instances where compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses.

(G) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would compromise the existence of any criminal, civil, or administrative enforcement activity. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(H) From subsection (g) for compatibility with the exemption claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness and completeness cannot apply to this record system. Information gathered in criminal investigations if often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

(23) *System identifier and name:* DMDC 17 DoD, Continuous Evaluation Records for Personnel Security.

(i) *Exemption:* In the course of carrying out records checks for continuous evaluation, exempt records from other systems of records may in turn become part of the case records maintained in this system. To the extent that copies of exempt records from those 'other' systems of records are maintained into this system, OSD

claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent that such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now maintained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy; to avoid interference during the conduct of criminal, civil, or administrative actions or investigations; to ensure protective services provided the President and others are not compromised; to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations; to preserve the confidentiality and integrity of Federal testing materials; and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(24) *System identifier and name:* DPFPA 06, Internal Affairs Records System.

(i) *Exemption:* Portions of this system that fall within 5 U.S.C. 552a(j)(2) and/or (k)(2) are exempt from the following provisions of 5 U.S.C. 552a, section (c)(3) and (4); (d); (e)(1) through (e)(3); (e)(4)(G) through (I); (e)(5); (f) and (g) of the Act, as applicable.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iii) *Reasons:* (A) From subsections (c)(3) and (4) because making available to a record subject the accounting of disclosure of investigations concerning him or her would specifically reveal an investigative interest in the individual. Revealing this information would reasonably be expected to compromise open or closed administrative or civil investigation efforts to a known or suspected offender by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(B) From subsection (d) because these provisions concern individual access to and amendment of open or closed investigation records contained in this system, including law enforcement and investigatory records. Compliance with these provisions would provide the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of the Pentagon Force Protection Agency; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential informant or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of investigative records would interfere with open or closed administrative or civil law enforcement investigations and analysis activities and impose an excessive administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(C) From subsections (e)(1) through (e)(3) because it is not always possible to determine what information is relevant and necessary in open or closed investigations.

(D) From subsections (e)(4)(G) through (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(E) From subsection (e)(5) because the requirement that investigative records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the criminal, administrative, or civil investigative process. It is the nature of Internal Affairs investigations to uncover the commission of illegal acts and administrative violations. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significant as further investigation brings new details to light.

(F) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would compromise the existence of any criminal, civil, or administrative enforcement activity. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(G) From subsection (g) for compatibility with the exemption claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal, administrative and civil investigations, standards of accuracy, relevance, timeliness and completeness cannot apply to open or closed investigations in this record system. Information gathered in criminal investigations is often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

(25) *System identifier and name:* DPFPA 07, Counterintelligence Management Information System (CIMIS).

(i) *Exemption:* Portions of this system that fall within 5 U.S.C. 552a(k)(2) are exempt from the following provisions of 5 U.S.C. 552a, section (c)(3); (d); (e)(1); (e)(4) (G) through (I); and (f) of the Act, as applicable.

(ii) *Authority:* 5 U.S.C. 552a(k)(2).

(iii) *Reasons:* (A) From subsections (c)(3) because making available to a record subject the accounting of disclosure from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected offender by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(B) From subsection (d) because these provisions concern individual access to and amendment of certain records contained in this system, including counterintelligence, law enforcement, and investigatory records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of agencies; compromise sensitive information related to national security; interfere with the overall counterintelligence and investigative process by leading to the destruction of evidence, improper

influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigation or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterintelligence investigations and analysis activities and impose an excessive administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(C) From subsection (e)(1) because it is not always possible to determine what information is relevant and necessary at an early stage in a given investigation. Also, because Pentagon Force Protection Agency and other agencies may not always know what information about a known or suspected offender may be relevant to for the purpose of conducting an operational response.

(D) From subsections (e)(4)(G) through (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(E) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would compromise the existence of any criminal, civil, or administrative enforcement activity. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. Counterintelligence investigations would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(26) *System identifier and name:* DMDC 16 DoD, Identity Management Engine for Security and Analysis (IMESA).

(i) *Exemption:* To the extent that copies of exempt records from JUSTICE/FBI–001, National Crime Information Center (NCIC) are entered into the Interoperability Layer Service records, the OSD hereby claims the same exemptions, (j)(2) and (k)(3), for the records as claimed in JUSTICE/FBI–001, National Crime Information Center (NCIC). Pursuant to 5 U.S.C. 552a portions of this system that fall within (j)(2) and (k)(3) are exempt from the following provisions of 5 U.S.C. 552a, section (c)(3) and (4); (d); (e)(1) through (3); (e)(4)(G) through (I); (e)(5) and (8); (f); and (g) (as applicable) of the Act.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(3).

(iii) *Reasons:* (A) From subsection (c)(3) because making available to a record subject the accounting of disclosure from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(B) From subsection (c)(4) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(C) From subsection (d) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement, counterterrorism, investigatory, and intelligence records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism, law enforcement, or intelligence investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(D) From subsection (e)(1) because it is not always possible to determine what information is relevant and necessary to complete an identity comparison between the individual seeking access and a known or suspected terrorist. Also, because DoD and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(E) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations, it is not feasible to rely upon information furnished by the individual concerning his own activities.

(F) From subsection (e)(3) to the extent that this subsection is interpreted to require DoD to provide notice to an individual if DoD or another agency receives or collects information about that individual during an investigation or from a third party. Should this subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede the activity.

(G) From subsection (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(H) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness could unfairly hamper law enforcement processes. It is the nature of law enforcement to uncover the commission of illegal acts at diverse stages. It is often impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further details are brought to light.

(I) From subsection (e)(8) because the requirement to serve notice on an individual when a record is disclosed under compulsory legal process could unfairly hamper law enforcement processes. It is the nature of law enforcement that there are instances

where compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses.

(J) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would unfairly impede the agency's law enforcement mission. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(K) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(27) *System identifier and name:* DMDC 24 DoD, Defense Information System for Security (DISS).

(i) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsections (c)(3) and (d) when access to accounting disclosure and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(B) From subsection (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. It is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

Dated: August 20, 2018.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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The President

Proclamation 9782—Patriot Day, 2018

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Presidential Documents

Title 3—

The President

Proclamation 9782 of September 10, 2018

Patriot Day, 2018

By the President of the United States of America

A Proclamation

On Patriot Day, we honor the memories of the nearly 3,000 precious lives we lost on September 11, 2001, and of every hero who has given their life since that day to protect our safety and our freedom. We come together, today, to recall this timeless truth: When America is united, no force on Earth can break us apart. Our values endure; our people thrive; our Nation prevails; and the memory of our loved ones never fades.

Although that fateful Tuesday 17 years ago began like any other, it erupted into horror and anguish when radical Islamist terrorists carried out an unprecedented attack on our homeland. In New York, Virginia, and Pennsylvania, the enemies of liberty took aim on America, but their evil acts could not crush our spirit, overcome our will, or loosen our commitment to freedom. Through the dust and ashes, we emerged resilient and united—bruised but not broken.

On September 11, 2001, the world came to understand the true source of America's strength: A people of an indomitable will and a society rooted in the timeless values of liberty. Our love of country was made manifest through the examples of Americans engaging in countless acts of courage, grit, and selflessness. Their actions gave us hope and helped to sustain us in the days of healing that followed. We were moved by the heroism of the passengers and crew aboard United Flight 93, who sacrificed their lives to prevent further acts of terror. We were inspired by police and first responders as they rushed headlong into burning buildings to rescue the injured and trapped, and as they courageously braved fire, smoke, and debris, descending deep into piles of rubble, ash, and twisted iron to search for survivors. We were stirred to service by the deeds of those who labored in the ensuing days and months, often in dangerous conditions, to help our Nation rebuild and recover. The noble sacrifices of these true patriots are forged into the great history of America.

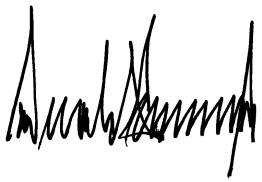
Today, we honor the memories of the souls we lost on September 11, 2001, and pay tribute to all of the patriots who have sacrificed their lives in defense of freedom. We pray for the Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen currently serving our Nation in harm's way. We thank the dedicated men and women who keep our homeland safe and secure. We applaud the unsung patriots in city halls, community centers, and places of worship across our country whose simple acts of kindness define the greatness of America.

By a joint resolution approved December 18, 2001 (Public Law 107–89), the Congress has designated September 11 of each year as ''Patriot Day.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim September 11, 2018, as Patriot Day. I call upon all departments, agencies, and instrumentalities of the United States to display the flag of the United States at half-staff on Patriot Day in honor of the individuals who lost their lives on September 11, 2001. I invite the Governors of the United States and its Territories and interested organizations and individuals to join in this observance. I call upon the people of the United States to participate in community service in honor

of those our Nation lost, to observe this day with appropriate ceremonies and activities, including remembrance services, and to observe a moment of silence beginning at 8:46 a.m. Eastern Daylight Time to honor the innocent victims who perished as a result of the terrorist attacks of September 11, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of September, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.



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